

UNIVERSITY OF OTTAWA

Ph.D. THESIS

DEPARTMENT OF POLITICAL SCIENCE

UNIVERSITY OF OTTAWA

THE RED RIVER RESISTANCE OF 1869-1870:

THE MACHIAVELLIAN MOMENT OF THE

THE MÉTIS OF MANITOBA

DARREN O'TOOLE

Summary

In October 1869, the fledgling Canadian federation was preparing for the transfer of Rupert's Land and the Northwestern Territory when the Métis set up a Provisional Government in order to resist what they saw as a unilateral annexation of their homeland. Although there were multiple references made to 'republicanism' during the Resistance, no scholar has ever explored whether republican conventions were actually present in political discourse in the District of Assiniboia prior to the Resistance and whether they were effectively activated during the Resistance. Working from the Cambridge School approach of discourse analysis, this thesis first identifies the conventions of democratic rhetorical republicanism, which includes positive and negative liberty, the rule of law, the mixed and balanced constitution and citizenship, which in turn involves virtue, the militia and real property. It then looks at the gradual introduction in Assiniboia of republican discourse from multiple sources, including the United States, Lower Canada, Upper Canada, Ireland, France and Great Britain and its circulation throughout several practical political struggles during the period from 1835 to 1869. In doing so, it shows that certain 'organic intellectuals' acted as 'transmission belts' of republican conventions and that institutional structures were a factor that rendered the activation of such conventions almost inevitable. By the time the Resistance took place in 1869, a more or less fully developed republican paradigm formed part of the linguistic matrix and was available to political actors in Assiniboia. Finally, the thesis shows that republican discourse was effectively mobilised by identifying fragments of republican conventions that were harnessed in various speech-acts during the Resistance. It is argued that republican language was fundamental to the success of the ideological and political manoeuvres of the leaders of the Resistance as it was particularly effective both as an instrument of anti-colonialism and as a pragmatic ideal of self-government that sought to correct the iniquities of colonial government.

Acknowledgements

I would especially like to thank my thesis supervisor, Professor Dimitri Karmis, who has helped and supported me in countless ways. He has not only guided me through the labyrinth of academic bureaucracy, but has been a friend throughout my doctoral studies. It was also during a seminar with Professor Karmis that I became more acquainted with James Tully, a student of Quentin Skinner, and Paul Romney, who found traces of republican thought in Upper Canada. I would also like to thank Professors Linda Cardinal and Douglas Moggach. It was during the Canadian politics seminar with Professor Cardinal that I first became aware of the question of republicanism in Québec and Canada and that I further explored the writings of John Pocock and Quentin Skinner. It was in the political thought seminar with Professor Moggach, where I had the opportunity to read up on classical republicanism and to become more familiar with the contemporary debate on republicanism, that I first came up with the idea of identifying republican conventions in the political discourse of the Métis during the Resistance. I would like to express my gratitude to Professor Michael Orsini who has been a constant support throughout my studies. A special word of thanks to the members of my thesis defence committee – Professors Georges Sioui, Claude Denis, Douglas Moggach and Peter Jay Smith.

I would also like to mention my friend, Jean-Pierre Couture, who has accompanied me on my intellectual journey from the beginning of my undergraduate courses at UQAM in 1994 until my present-day Ph.D. thesis. I am also indebted to him for carrying out the final corrections to my M.A. thesis while I was in Germany. I would also like to acknowledge all those at the School of Political Studies with whom I engaged in theoretical discussions. My father, Robert Richard O’Toole – who was a sort of modern day Métis *voyageurs* when he worked as a truck-driver – has always supported me in his own stoic way throughout my post-secondary studies. To my mother, Merrily Vera Rodgers, who brought me into this world and who gave me this life that I love so much. Last, but certainly not least, I would like to express my gratitude to *ma douce moitié*, Dalie Giroux, for the ongoing dialogue that inspires me every day and who has been a faithful commentator ever since she took the trouble to read my M.A. thesis.

Table of Contents

SUMMARY.....	II
ACKNOWLEDGEMENTS.....	III
INTRODUCTION.....	1
ETHNOGENESIS OF THE MÉTIS PEOPLE.....	3
<i>Unwashed and Somewhat Slightly Dazed: the Métis as ‘Living Tools’</i>	6
REPUBLICANISMS.....	10
<i>Patrician and Plebeian Republicanisms</i>	11
<i>Rational and Rhetorical Republicanisms</i>	13
REPUBLICANISM...OR LIBERALISM?.....	15
1. REVIEW OF LITERATURE AND THEORETICAL FRAMEWORK.....	20
1.1. GENERAL QUESTION.....	24
1.2. REVIEW OF THE LITERATURE.....	24
1.3. RESEARCH QUESTIONS.....	32
1.4. RESEARCH PROPOSITIONS.....	32
1.5. THE CAMBRIDGE SCHOOL: HISTORY OF POLITICAL DISCOURSE.....	33
1.5.1. <i>Tracing Republican Fragments in Assiniboia</i>	37
1.6. METHOD OF RESEARCH.....	40
1.6.1. <i>Verification</i>	41
1.6.2. <i>Limits of Methodology</i>	46
1.7. GENERAL AND SPECIFIC OBJECTIVES.....	47
1.7.1. <i>Originality</i>	48
1.7.2. <i>Academic and Social Relevance</i>	49
2. DEMOCRATIC RHETORICAL REPUBLICANISM.....	51
2.1. REPUBLICAN LIBERTY.....	53
2.1.1. <i>Of Positive Liberty</i>	54
2.1.2. <i>Of Negative Liberty as Non-Interference</i>	55
2.1.3. <i>Of Negative Liberty as Non-Domination</i>	59
2.2. THE RULE OF LAW.....	63
2.3. A MIXED AND BALANCED CONSTITUTION.....	66
2.3.1. <i>The Monarchical Principle and Executive Power</i>	69
2.3.1.1. <i>Hedging in the Monarchical Principle</i>	71
2.3.2. <i>The Aristocratic Principle and the Judiciary</i>	73
2.3.3. <i>The People and the Legislative</i>	74
2.4. CITIZENSHIP.....	76
2.4.1. <i>Virtue</i>	76
2.4.2. <i>Local militia</i>	84
2.4.3. <i>The Role of Property</i>	86
3. POLITICAL STRUGGLES AND REPUBLICAN CONVENTIONS: 1835-1869.....	90
3.1. THE CHARTER OF THE COMPANY OF ADVENTURERS OF ENGLAND.....	91
3.1.1. <i>The Charter’s Provisions for Civil Government</i>	93
3.1.2. <i>Civil Government of the District of Assiniboia</i>	95
3.2. FROM ECONOMIC ‘LIVING TOOLS’ TO POLITICAL ‘QUASI-CITIZENS’.....	98

3.2.1.	<i>The Petition of 1846</i>	105
3.3.	THE SAYER TRIAL AND THE ‘LIST OF RIGHTS’	107
3.3.1.	<i>Private vs. Public Interest: the ‘Corruption’ of the HBC</i>	110
3.3.2.	<i>Popular Representation on the Council</i>	111
3.3.3.	<i>Popular Representation in the Judiciary</i>	114
3.4.	THE ANNEXATION MOVEMENT	114
3.4.1.	<i>The Kennedy Petition</i>	117
3.5.	CROWN COLONY STATUS	120
3.5.1.	<i>The Corbett Petition</i>	121
3.5.2.	<i>The Ross Petition</i>	124
3.6.	PROVISIONAL GOVERNMENT.....	129
3.6.1.	<i>Stewart’s Agitation</i>	130
4.	BEHEMOTH RISING: THE PROVISIONAL GOVERNMENT OF ASSINIBOIA	133
4.1.	POTENTIAL SOURCES OF REPUBLICAN DISCOURSE IN RED RIVER	135
4.1.1.	<i>Usonian Republicanism</i>	135
4.1.2.	<i>Irish Republicanism</i>	137
4.1.3.	<i>La République française</i>	139
4.1.4.	<i>Le républicanisme des Patriotes</i>	140
4.1.5.	<i>Reform and Clear Grit ‘Republicanism’</i>	143
4.2.	ACT FOR THE TEMPORARY GOVERNMENT OF RUPERT’S LAND, 1869	145
4.3.1.	<i>The “Quasi-Citizen’ Status of the Métis</i>	151
4.4.	THE MÉTIS NATIONAL COMMITTEE	154
4.5.	THE FIRST CONVENTION.....	159
4.5.1.	<i>The First List of Rights</i>	161
4.5.2.	<i>The First Provisional Government</i>	167
4.6.	THE SECOND CONVENTION.....	172
5.	REPUBLICAN DISCOURSE AND THE RESISTANCE OF 1869-1870	176
5.1.	REPUBLICAN LIBERTY	177
5.1.1.	<i>Positive Liberty</i>	180
5.1.2.	<i>Negative Liberty</i>	183
5.2.	THE RULE OF LAW	186
5.3.	A MIXED AND BALANCED CONSTITUTION.....	187
5.3.1.	<i>The Monarchical Principle</i>	188
5.3.1.1	Fettering the Prerogatives of the Crown	191
5.3.2.	<i>The Aristocratic Principle</i>	192
5.3.3.	<i>The Popular Principle</i>	194
5.4.	CITIZENSHIP	199
5.4.1.	<i>Virtue: the μήτις of the Métis</i>	200
5.4.2.	<i>Local militia</i>	203
5.4.3.	<i>The Role of Real Property</i>	208
	CONCLUSION	216
	APPENDIX	227
	APPENDIX I. STATUTES	227
	<i>British North America Act, 1867</i>	227
	<i>Act for the temporary Government of Rupert’s Land</i>	227
	<i>Manitoba Act, 1870</i>	228
	APPENDIX II. LISTS OF RIGHTS	231
	<i>First List of Rights</i>	231

<i>Second List of Rights</i>	231
<i>Third List of Rights</i>	233
<i>Fourth List of Rights</i>	235
APPENDIX III. DECLARATIONS OF PROVISIONAL GOVERNMENT	237
<i>Declaration of the People of Rupert's Land and the North-West</i>	237
<i>Circular to the Inhabitants of the North and the North-West</i>	238
<i>Proclamation to the People of the North-West</i>	239
<i>Protest of the Peoples of the North-West</i>	240
WORKS CITED	243

Introduction

Section 146 of the *British North America Act, 1867*, provided for the eventual transfer of the remaining British North American colonies and territories to the fledgling Dominion of Canada (Appendix I: 277). Since Prince Edward Island, Newfoundland and British Columbia were Crown colonies, s. 146 rendered it necessary to obtain the acceptance of their respective Legislatures before the Imperial Crown could admit them as members of the Canadian federation. Although Lord Selkirk had established a settlement at the forks of the Red and Assiniboine Rivers in the years between 1811 and 1818 and the Hudson's Bay Company (HBC) created the District of Assiniboia that was governed by a Governor and Council and provided with a rudimentary judicial system, s. 146 did not provide for the consultation of the population of the Red River Settlement concerning the terms of the transfer of Rupert's Land and the Northwestern Territory to Canada. In order to resist what they saw as a unilateral annexation of Rupert's Land and the North-West Territory to Canada, the Métis formed a National Committee. The latter first prevented surveyors sent by the Canadian government from carrying out their work, then blocked the entrance of the Lieutenant-Governor designate, before taking possession of Upper Fort Garry, finally declaring the establishment of a provisional government. Upon invitation from the Dominion government, the executive of the provisional government commissioned three delegates to negotiate the conditions of entry into Confederation based on a *List of Rights*. The result was the *Manitoba Act, 1870*, which granted the District of Assiniboia provincial status and self-government.

In 1869-1870, the population of the District of Assiniboia,¹ or Red River Settlement, was about 11,960 individuals, which included 4080 English and Scots Half-Breeds, 5700 Métis *canadiens*, 1600 ‘Whites’ and 570 ‘settled’ Indians (Canada, 1871: 95).² It was primarily the Métis, the offspring of *Canadien* voyageurs and their Aboriginal wives, who took up arms in order to resist the unilateral annexation of what they considered to be their homeland. This confrontation between the Métis and the Canadian government, which was in fact a culmination of their struggles with the HBC, is what I call here the ‘Machiavellian moment’ of the Métis of Manitoba. In this regard, Pocock (2003: 554) provided two definitions of the ‘Machiavellian moment’: 1) “the historic ‘moment’ at which Machiavelli appeared and impinged upon thinking about politics”; and 2) “either of two ideal ‘moments’ indicated by his writings: the moment at which the formation or foundation of a ‘republic’ appears possible or the ‘moment’ at which its formation is seen to be precarious and entail a crisis in the history to which it belongs.” Pocock (*ibid.*: vii) specified that, in the first case, it is not so much a matter of Machiavelli the author, nor his writings nor even his political thought, but rather a Machiavellian *mode of thinking* about politics. This mode of thinking involves “the presentation of the republic, and the citizen’s participation in it, as constituting a problem in historical self-understanding” (*ibid.*).

¹ The District of Assiniboia was about a fifty-mile radius around Upper Fort Garry, or modern-day Winnipeg (Stanley, 1961: 16).

² For lack of a better term, I will use the expression ‘Half-Breed’ to designate the mixed-blood offspring of the CAE fur trade tradition. While it is true, as Flanagan (1983a: ix) remarked that “the word is today offensive to many people,” I am a little less certain that “it was a more neutral term a century ago.” While Alexander Begg might be described as one of those “white liberals who sympathized with native aspirations” (Flanagan, 1983a: ix), it was not in 1969, but in 1869, that he fulminated: “whoever started the term Breed ought to have been choked before he had time to apply it to human beings” (Bumsted, 2003a: 127). That being said, while some attempts have been made to replace ‘Half-Breed’ with terms such as ‘mixed-blood’ (Spry, 1985) or ‘country born’ (J. Foster, 1973) or simply ‘Métis’, these can lead to confusion. ‘Mixed-blood’ can refer to all those who were genetically mixed, including those who identified themselves as “Indians” (J. Foster, 1985: 80). Like the term ‘native’, ‘Country born’ can refer to white settlers born in the North-West and not only to Indigenous peoples. For its part, the use of ‘Métis’ as a generic term blurs the distinction that both the *Bois-Brûlés* (*Wissahkotewan Niniwak* or *Wissaakodewinini* in Anishinaabemowin, meaning “men partly or half burnt”) and the Half-Breeds maintained between themselves. In any case, according to Foster (2007: 26) the term ‘métis’ was initially equally derogatory, but in an act of subaltern subversion, it “was soon flaunted in the faces of those who used it by those to whom it referred.” After considering various labels, Foster concluded that, “in spite of its serious limitations ‘Red River Halfbreed’ may yet emerge as the most useful term to identify this cultural identity” (*ibid.*: 30). If it is true, as Flanagan (1983a: ix) observed, that “contemporary Métis spokesmen often are proud to be called half-breeds,” this was all the more so the case of Half-Breeds during the Resistance. As those who are most concerned often used the term ‘Half-Breed’ as a self-identifier, I can but agree with Flanagan (1983a: ix) when he stated, “I hope I will be allowed to use it in that context.”

Pocock's reference to a 'Machiavellian mode of thinking' clarifies the sense in which the expression 'Machiavellian moment' is used here, that is, in a figurative or a paradigmatic sense. It was not necessarily and only through the *auctor* Machiavelli that classical political theory was diffused in England and then North America. He can nevertheless be taken as the ideal-type of the organic intellectual through whom such ideas were diffused. In Gramscian terms, Machiavelli was an intellectual who acted as a 'transmission belt', that is as both receptor and transmitter of a particular set of political ideas (Rojek, 2005: 354), but he was but one of scores of such transmission belts of the 'paradigmatic legacy' of classical republican political theory who diffused it in Italy, imported it from Italy to England, then from England to Ireland and America, to the very fringes of the British Empire where the Métis people would mobilise in a struggle for their civil and political rights and liberties.

In order to situate the reader in terms of the economic and social rank of the Métis, I will first provide an account of their emergence as a people within the competition between two mercantile fur trade systems in the seventeenth and eighteenth centuries. The ethnogenesis of the Métis people presented a challenge to colonial powers that neither desired to officially recognise their status as an Indigenous people, nor wished to grant them the full civil and political rights of British subjects. After examining their status as that of 'living tools' or 'quasi-citizens', I then turn to the question of defining 'republicanism'. Republicanism can be broadly divided into patrician and plebeian republicanism on the one hand, and rational and rhetorical republicanism on the other. The particular type of republicanism that was involved in the Métis Resistance combined elements of both plebeian and rhetorical republicanism, a model that will be elaborated on further in chapter two. From there, I will briefly consider the liberal/republican debate in order to show that the Resistance leaned more toward a republican movement, although it is difficult, if not impossible, to entirely separate the two in practice given their interrelated historical development. Finally, I will provide a chapter-by-chapter summary of the thesis.

Ethnogenesis of the Métis People

The Métis and Half-Breeds were the mixed-blood offspring of white traders and their Amerindian wives who had respectively grown-up under the patronage of two distinct fur trade systems, the North West Company (NWC) and the Company of Adventurers of

England (CAE).³ Like other ‘new nations’ of the Americas, the ‘imagined community’ of the Métis was constructed “dans un contexte colonial, au sein d’un réseau de dépendances dont l’évolution va conditionner étroitement les formes culturelles en émergence” (Bouchard, 2001: 14). It can be traced back to the French fur trade at the beginning of the seventeenth-century when, in 1627, King Louis XIII granted a *Charter* that included a fur-trade monopoly extending from Florida to the North Pole to the *Compagnie des Cent-Associés*, better known as the *Compagnie de la Nouvelle-France* (Havard et Vidal, 2003: 87). With the collapse of the Wendat Confederacy (Trigger, 1976), and therefore of the Wendat in the role of middleman between the French and other Amerindian peoples, the French began to take the fur trade directly to the latter. They eventually developed a system that included the following characteristics: 1) “a licensing system which [...] attempted to regulate both the flow of furs to market and the dimensions and quality of Indian-White contact”; 2) “a recognition of the fur gathering tribes as necessary, if unequal, partners with whom economic and diplomatic alliances were maintained through fair dealing and gift exchange”; 3) “a willingness to trade with Indian hunters at their residential source, which necessitated the erection of fortified posts for protection”; 4) “the employment of a semi-Indianized occupational class – the voyageur-trader – in the middle and lower-rung trade positions requiring travel to and contact with Indian hunters”; and 5) “widespread intermarriage between this class and Native women,” notably to solidify the economic and diplomatic alliances with particular communities (Peterson, 1982: 26; 1985: 40).⁴

With the gradual extension of the fur trade and the establishment of French forts in the Great Lakes region, intermarriage between First Nations women and French fur traders eventually resulted in the emergence of distinct Métis cultures that combined European and First Nations heritages in unique ways in what is now the Province of Ontario (Peterson, 1985). The Métis, or ‘French Indians’ as they were sometimes termed (Giraud, 1984: 430), most notably in the ‘Old North West’ as it was called in the United States (Thorne, 1996), originally occupied the frontier zones of New France, in the Great Lakes Region and along the Mississippi River (ibid.: 8). Gradually, fairly large mixed-blood populations that were

³ I will use ‘Company of Adventurers of England’ (CAE) here to distinguish it from the ‘Hudson’s Bay Company’ (HBC) that was formed in 1821 following the merger with the North-West Company and thereby underscore a certain shift in the company as an institution.

⁴ Peterson was actually writing about the North-West Company and the American Fur Company, but noted that these had simply made ‘minor modifications’ to the French system.

neither assimilated into the mother's tribe nor into the European colonial population eventually emerged as mixed-blood communities, distinct from the surrounding Amerindian and European populations (Giraud, 1984: 434). French explorers eventually penetrated the continent as far as the Rocky Mountains and had established a string of forts from Lake Superior to the Saskatchewan River, passing along Rainy River from Rainy Lake to Lake of the Woods, then along English River to Lake Winnipeg, up Red River to the Assiniboine, then north through Lake Manitoba to the Saskatchewan (McNeil, 1982: Map 5).

During the *Seven Years War* (1756-1763)⁵ the fur trade was briefly interrupted. However, following the military defeat of Québec in 1759 and the capitulation of Montréal in 1760, French routes up again as early as 1761, when “over 200 voyageurs were sent inland from the Montréal region to the Indian country to pursue the fur trade” (Brown, 1980: 35). The difference was that seven of the twelve merchants who hired them were English or Scottish (ibid.). When the *Treaty of Paris, 1763*, officially ended the *Seven Years War*, with France ceding New France to Great Britain, the British monarch issued the *Royal Proclamation, 1763*, which, among other things, protected Indian lands from speculators and thereby sought to favour “peace, order and good government.” Apparently, some *Bois-Brûlés* were involved in Pontiac's War (1763) and attended the ceremony at Niagara Falls (Teillet, 2006: 9-10), but it is not clear if they did so as members of Indian tribes, as French subjects or as a distinct people. In any case, the *Royal Proclamation* provided that licensed traders were allowed to go into the Indian Territory (Renaud and Baudouin, 1977: 234).

The Scottish investors who replaced their French counterparts in Montréal and pursued the St. Lawrence and Great Lakes fur trade did not only do so by employing *Canadien* voyageurs, but also by pursuing the French practice of hanging-around-the-teepee by both establishing posts in traditional summer gathering places and encouraging wintering among the Indigenous peoples (A.S. Morton, 1973: 257). In 1768, “the official prohibition of wintering among the Indians was withdrawn by the government of Québec” (W.L. Morton, 1967: 38). Competing interests in Montréal formed the North-West Company (NWC) in 1783-4 (ibid.: 335) and by 1795, it had merged with its rivals in Lower Canada to form a common front against the HBC (ibid.: 421). The NWC developed a proto-corporate-welfare-

⁵ Or such as it was seen in Europe. It is perhaps better known in Canada as *The Conquest* and the *French and Indian War* in the United States.

bum strategy whereby it encouraged its *engagés* to ‘winter’ with a particular community. This not only allowed the NWC to reduce its operation costs, and thereby indirectly subsidise profits by exploiting the Indigenous welfare system, but also to secure alliances with the community in question (J. Foster, 2001). It was the ‘shared experiences’ of these hang-around-the-teepee whites that contributed to the emergence of “visually, ethnically, and culturally distinct” (Peterson, 1982: 28) Métis communities when they took their Indigenous wife and family with them, establishing communities “apart from both the trading post and the Indian band” (J. Foster, 2001: 180). For Heather Devine (2004: 202), it “was the establishment of a separate geographical, economic and cultural space, rather than biological *métissage* itself, that led to the creation of a distinctive ethnic consciousness that came to be identified as Métis.”

Unwashed and Somewhat Slightly Dazed: the Métis as ‘Living Tools’

It could be said that the Métis have always fallen on the wrong side of classical political thought. In the *Digest*, “the predicament of the slave is defined as that of ‘someone who, contrary to nature, is made the property of someone else’” (Skinner, 1998c: 39). Similarly, Aristotle (1932: 17) remarked that slaves were “a live article of property.” Aristotle (*ibid.*: 19) specified that “one who is a human being belonging by nature not to himself but to another is by nature a slave, and a person is a human being belonging to another if being a man he is an article of property, and an article of property is an instrument for action separate from its owner.” For this reason, Aristotle (1932: 19) referred to slaves as ὄργανον ἔμψυχον (*organon empsukhon*), that is, ‘living tools’. He further specified that a slave by nature is one “who participates in reason so far as to apprehend it but not to possess it” (*ibid.*: 23) and that “the master must know how to direct the tasks which the slave must know how to execute” (*ibid.*: 31). What this meant is that slaves lack directive reasoning, or the ability to decide on ends, but possess instrumental reason and are able to decide on the means to attain the ends that are fixed by others. For this reason, even a craftsman “is under a sort of limited slavery” (*ibid.*: 65). Of course, like many Greeks, Aristotle believed that ‘barbarians’ and slaves were the same in nature (*ibid.*: 7).

Aristotle would have undoubtedly seen the Métis as labourers who were hardly better than slaves and as practicing arts devoid of virtue. Burke (1968: 124), who thought in

Aristotelian terms, would have undoubtedly seen the Métis as being among those who were “destined to travel in the obscure walk of laborious life” (ibid.: 124) and as “men formed to be instruments, not controls” (ibid.: 132). He would have seen them as totally deprived of the type of virtue necessary for self-government, for the “occupation of a hair-dresser, or of a working tallow-chandler, cannot be a matter of honour to any person – to say nothing of a number of other more servile employments” and “the state suffers oppression, if such as they, either individually or collectively, are permitted to rule” (ibid.: 138).

A memorable example of the Aristotelian principles that underly the colonial mentality toward the Métis can be found in Alexis de Tocqueville’s travel narratives during his visit to the ‘Old Northwest’ in 1831. While waiting on shore at dusk with his friend, Gustave de Beaumont, and two young Anishinaabeg guides, he saw approaching in the obscurity a third guide, a man crouching in an Indian canoe who wore “le costume d’un Indien et avait toute l’apparence d’un Indien” (Tocqueville, 2003: 107). The latter first addressed the two Anishinaabeg guides in an Amerindian language that Tocqueville could not understand, undoubtedly Anishinaabemowin. When he spoke to Tocqueville, the latter remarked that it was “avec un accent normand qui me fit tressaillir. [...] Mon cheval m’aurait adressé la parole que je n’aurais pas, je crois, été plus surpris.” When Tocqueville asked him: “Qui êtes-vous donc, [...] le français semble être votre langue et vous avez l’air d’un Indien ?,” his guide answered “un *bois-brûlé*, c’est-à-dire le fils d’un Canadien et d’une Indienne” (ibid.). Tocqueville, who did not know what to think of this in-between person, called him successively ‘le prétendu Indien’, ‘notre compatriote le sauvage’ (ibid.), ‘le Canadien’ (ibid.: 107, 108, 124) and ‘mon Normand d’Amérique’ (ibid.: 124).

When Tocqueville arrived in the village of Saginaw, a community composed of around thirty inhabitants, he observed that it was divided into four sections: Usonian,⁶ *Canadiens*, Amerindians and Métis. The Métis habitat was “une cabane rustique plus commode que le wigwam du sauvage, plus grossière que la maison de l’homme policé” that was located “près des défrichements européens et pour ainsi dire sur les confins de l’ancien et du Nouveau

⁶ Throughout my thesis, I will use the expression ‘Usonian’ instead of ‘American’ to designate the citizens of the United States. The term was coined by James Duff Law (1903: 111-112), who wrote: “We of the United States, in justice to Canadians and Mexicans, have no right to use the title 'Americans' when referring to matters pertaining exclusively to ourselves.” For this reason, both French and Spanish respectively use the expressions *étatsunien* and *estadounidense* instead of *américain* and *americanos*. In addition, ‘American’ was also used to designate the Indigenous inhabitants of the Americas.

Monde” (ibid.: 115). Inside this “hutte à demi civilisée,” Tocqueville was “tout surpris d’entendre [...] une voix douce qui psalmodiait sur un air indien les cantiques de la pénitence” (ibid.). The young woman who was singing “était habillée comme une de nos paysannes [normandes],” but when Tocqueville first asked her if she was French, and then English, “[elle] baissa les yeux” and answered, “je ne suis qu’une sauvage” (ibid.). It was here that Tocqueville, who identified the young woman as being a *métisse*, projected onto the Métis his own confusion due to his incapacity to fit the Métis into pre-established colonial categories:⁷

Enfant élevé dans l’usage de deux langues, nourri dans des croyances diverses et bercé dans des préjugés contraires, le métis forme un peuple composé aussi inexplicable aux autres qu’à lui-même. Les images du monde lorsqu’elles viennent se réfléchir sur son cerveau grossier, ne lui apparaissent que comme un chaos inextricable dont son esprit ne saurait sortir. Fier de son origine européenne, il méprise le désert; et pourtant il aime la liberté sauvage qui règne. Il admire la civilisation et ne peut complètement se soumettre à son empire. Ses goûts sont en contradiction avec ses idées, ses opinions avec ses mœurs. Ne sachant comment se guider au jour incertain qui l’éclaire, son âme se débat péniblement dans les langues d’un doute universel. Il adopte des usages opposés; il prie à deux autels; il croit au Rédempteur du monde et aux amulettes du jongleur; et il arrive au bout de sa carrière sans avoir pu débrouiller le problème obscur de son existence.

Contemporary fur-trader and amateur historian, Alexander Ross (1783-1856) saw the Métis in a similar light. According to Ross (1957: 167), the Métis were accustomed “to depend on the [Hudson’s Bay] Company” and “seldom thought for themselves.” When the Métis first voiced grievances with the HBC, such demands were seen as “all feelers sent forth covertly by designing and disaffected demagogues, who made dupes of the silly half-breeds to answer their own vile purposes, by always pushing them forward in the front rank to screen themselves” (ibid.: 169). Unfortunately, the prejudices of nineteenth-century contemporaries, who imagined the Métis as being torn between two contradictory directive principles due to their mixed origins, are all too often an underlying premise in the works of professional historians. For Giraud, the Métis presented a particular problem in terms of Aristotelian notions concerning the role of education in the formation of moral character due to their dual origins. Aside from the lack of a single directive principle, Giraud implies that the Métis suffered from their Amerindian origins, which fit all too well with Aristotle’s

⁷ This is a typical example of the projections of the colonizer on the colonized. See Saïd (1979); Dickason (1993); Anderson (2003); Mativat (2003).

characterisation of ‘barbarians’ as slaves by nature. For Giraud (1984: 469), “la véritable originalité du métis [...] paraît avoir résidé dans l’absence de formation morale précise qu’il devait à la dualité de ses origines.” Due to the “absence de principe directeur bien défini,” the Métis were “voué à subir l’ascendant des influences les plus opposées” (ibid.: 470). The ignorance and “incertitude de sa formation morale rendaient [les Métis] plus accessible aux manoeuvres et à la propagande des ‘partenaires’: [...] il était facile d’exploiter [leur] faiblesse de volonté pour en faire les instruments d’exécutions des projets de la Compagnie du Nord-Ouest” (ibid.: 502). Even when the leader was himself Métis, a fellow Métis “s’abandonne à ses directives avec une docilité qui procède de sa passivité naturelle et de l’ascendant qu’exerce infailliblement sur lui une volonté forte” (ibid.: 510). Similarly, for MacLeod and Morton (1974: 22-23), whereas the *Canadien* freemen “were quite independent” and “knew their rights,” their “half-breed sons, however, were wilder by disposition and more easily influenced.” In their account, Cuthbert Grant and the Métis are portrayed as “the dupes and tools of the Nor’Westers” (ibid.: 24).

Both their Indigenous and mixed heritage destined them to the lower ranks of colonial economic and social order. Following the merger of the CAE and NWC into the HBC, the Red River Settlement became a refuge for servants and their families who were released from service during the 1820s. According to Ens (1996: 10), officers of the HBC “hoped the Métis would come under the influence of churches, schools, and local government, and *provide a docile workforce.*” When Howe called the Métis a ‘peculiar people’ in a letter dated 31 October 1869, he compared them to fishermen and lumberman, saying, “they do a large amount of the rough work of the country, which nobody else can do so well” (Canada, 1870b: 1473). Their place in the Settlement was very much that of ‘living tools’, either as a labour pool under the direction the HBC, which cast itself in the role of Aristotle’s ‘master craftsman’, or as the wandering sheep under the guidance of the Church, which thought of itself very much in terms of a shepherd.

Despite their mixed origins and subordinate social status, neither the British nor the Usonian wanted to recognise their Indigenous rights. In reaction to attempts on the part of the HBC to enforce its fur trade monopoly, the Métis and Half-Breeds submitted a series of fourteen hypothetical questions to Governor Christie on 29 August 1845 in which they

basically claimed that, as ‘natives of the country’ and as the offspring of Amerindians, they had the right to trade with the Amerindians. Christie responded:

[...] your first nine queries, as well as the body of your letter, are grounded on the supposition that the half-breeds possess certain privileges over their fellow citizens, who have not been born in the country. Now, *as British subjects*, the half-breeds have clearly *the same rights in Scotland or England as any person born in Great Britain*, and your own sense of justice will at once see how unreasonable it would be to place the Englishmen and Scotchmen on a less favourable footing in Rupert’s Land than yourselves [...] (A.S. Morton, 1978: 32-33. Emphasis added).

Similarly, when Governor Ramsey of the Minnesota Territory encountered the Métis, they claimed Indian title because “it was they who possessed the country really” (White, 1999: 38). While he denied their Indian title, he nevertheless qualified them as “quasi citizens” and as an “interesting and peculiar people” who were in “a peculiar situation” (ibid.: 38-9), undoubtedly due to their Aboriginal ancestry. However, the U.S. federal government was at least consequent with its principles. When Congress created the Territory of Minnesota in March 1849, which included an elected territorial legislature (Gilman, 1999: 3, 6), the Métis of Pembina, who were counted among the ‘whites’ in the 1850 census (White, 1999: 30), were granted full political rights. In British North America, Major John Griffiths submitted his *Memorandum upon the Petition of the French ‘Half-Breeds’ of the Red River Settlements, Hudson’s Bay Company* to the Colonial Office in 1849 in which he declared that the Métis were not “at present, neither from position, habits or character fitted for legislators” (Bumsted, 2000: 114).

Republicanism

Since my thesis claims that the political discourse of the Resistance fit within a republican paradigm, it is perhaps useful to immediately provide a working definition of the term. As Nelson (2004: 17-18) has pointed out, if “by ‘republicanism’ we mean a tradition of taking the ‘republic’ as a constituent unit of political life, then there will be as many ‘republicanisms’ as there are uses of the word ‘republic’.” From a conventionalist perspective, I agree with Nelson (2004: 17-18) that, “one will search in vain for the ‘essence’ that underlies all these uses [of the word ‘republic’].” The problem is that Nelson (ibid: 4) relies on this to assert on the one hand that “Greek and Roman political theory were substantially different from one another” all the while claiming on the other hand that there

are nevertheless “essential, unifying characteristics” of Greek thought. No sooner had he said this than he backtracked, admitting that the ‘Greek view’ was “clearly a minimal composite summary, designed to highlight a certain orientation shared by Plato and Aristotle” and that he had no intention of suggesting “that the works of Plato and Aristotle alone constitute ‘Greek Thought’” (ibid.: 15-16).⁸ I think that what Nelson was trying to get at was that, while there is no ontological republicanism, there are nevertheless inter-subjective conventions that conceptually distinguish it from other political doctrines. No one would seriously argue from either the inter-subjective perspective of the history of ideas or from the analytical perspective of political theory that there is no need, for example, to conceptually distinguish republicanism, liberalism, conservatism and communism. In other words, nominalism does not imply that signifiers are subject to the arbitrary whim of the individual user. While certainly open to manipulation and gradual change, the use of words is nevertheless restricted by inter-subjective ‘conventions’ regarding their meaning that have crystallised to some extent over several generations.

Patrician and Plebeian Republicanisms

I would argue that the conceptual distinction at work is not so much between ‘Greek’ and ‘Roman’ traditions of republican thought, as Nelson would have it, but rather the balance of a republican mixed constitution that leans more heavily toward either the Patrician or Plebeian class. Nelson’s sole criterion for distinguishing Greek and Roman traditions is the different attitude of Greek and Roman philosophers and historians toward the issue of land redistribution. Yet, Roman plebeians were no less favourable to land redistribution than the Greek *demos*, nor were Greek oligarchs any less opposed to it than the Roman patricians.⁹ No less a figure than Tocqueville drew a distinction between aristocratic republicanism and

⁸ Despite Nelson’s reliance on Plato, the latter was fully aware of the difficulty of redistributing property. In the *Laws* (1926a: 353-5), Plato wrote: “the colony of the Heraclidae was fortunate in avoiding fierce and dangerous strife concerning the distribution of land and money and the cancelling of debts [...]; for when a State is obliged to settle such strife by law, it can neither leave vested interests unaltered nor yet can it in any way alter them, and no way is left save what one might term that of ‘pious aspiration’ and cautious change, little by little, extended over a long period.”

⁹ Nelson (2004: 7) acknowledged that, “the Greeks were by no means generically incapable of articulating a case against redistribution; such opposition was widespread throughout the Greek world in the classical period.”

democratic republicanism (Audier, 2004: 46).¹⁰ Skinner (1990a; 1998a; 2002a; 2002b) also distinguished to a certain extent between Greek and Roman thought on republicanism when he noted that if notions of the *vita activa* reached Florence in the fifteenth century, Machiavelli's sources were largely Roman, and did not involve the Aristotelian ideal of the ζῷον πολιτικὸν (*zōon politikon*) or 'political animal'.¹¹ Hans Baron (1955) had also previously argued that the republicanism of the early Renaissance Italian city-states, and notably the Florentine republic, was largely based on a particular interpretation of Roman history. If Baron coined the term 'civic humanism' to describe this form of republicanism, Skinner initially preferred to speak of it as 'neo-Roman', although he later abandoned the expression (2008: viii). Since then, Julia and Peter Bondanella (1997: viii) have agreed that Machiavelli's models were largely Roman while Viroli (2002: 4) has asserted that the 'Machiavellian' republicanism of the medieval and Renaissance Italian city-States "was not a theory of direct participatory democracy but of representative self-government with constitutional boundaries" and that the "interpretation of republicanism as a form of political Aristotelianism is a historiographical error" (ibid.: 65). Likewise, Rawls (1996: 205-6) associated classical republicanism with "the view that if the citizens of a democratic society are to preserve their basic rights and liberties, including the civil liberties which secure the freedoms of private life, they must also have to a sufficient degree the 'political virtues' (as I have called them) and be willing to take part in public life." While this is precisely what Baron meant by 'civic humanism', Rawls (ibid.) associated this expression with "a form of Aristotelianism" that "is sometimes stated as the view that man is a social, even a political, animal whose essential nature is most fully realized in a democratic society in which there is

¹⁰ While McCormick (2003: 616) is not entirely wrong to note "the traditional oligarchic tendencies of republicanism," Nelson's dichotomy demonstrates that, there is no need to reconstruct republicanism "almost beyond the point of recognition," as McCormick claims, to render it less elitist. In light of this, while one could claim that Machiavelli's thought strayed from the aristocratic or patrician republican tradition and emphasized the democratic or plebeian element of a mixed constitution, it is a complete anachronism to attempt to entirely disassociate Machiavelli from republicanism, as McCormick does (in what might be termed an 'ideological manoeuvre'). For this reason, it is totally unnecessary for those of the Cambridge school, "and those influenced by them, to reconsider the use of the term [republican] and cease in the attempt to supplement contemporary democracy with insights from that tradition" (McCormick, 2003: 616). If Machiavelli is "an intellectual figure very dear to the Cambridge scholars of republicanism," as McCormick notes (ibid.: 117), it is precisely due to his adherence to democratic and discursive republicanism. Skinner (1998c: 117 note 28) has already refuted such 'all-or-nothing' arguments when he noted that Constant "assumes that the ambition of those who praise what he calls liberty of the ancients must be to rebuild the entire constitutional structure of the ancient city-states, including such obviously alien and tyrannical institutions as ostracism and censorship."

¹¹ Or rather, it was not what Arendt and Pocock take the ζῷον πολιτικὸν to mean.

widespread and vigorous participation in political life.” For Pettit (1997: 8), republicanism is notably “associated with Cicero at the time of the Roman Republic” and he explicitly dissociates this from the “communitarian and populist approach” that emerged under the influence of Arendt.¹² Spitz (2001: 21) agrees that “le républicanisme se distingue franchement de ce qu’il est convenu d’appeler l’humanisme civique: il ne met pas l’accent sur le caractère essentiellement politique de la nature humaine et il ne soutient pas que l’activité civique est essentielle à l’épanouissement de la personnalité humaine dans toute sa richesse et dans toute son authenticité.” Apart from patrician and plebeian republicanism, a further distinction can therefore be drawn between a ‘neo-Aristotelian’ republican tradition, which is a form of communitarianism, and a ‘neo-Roman’ tradition.

Rational and Rhetorical Republicanisms

Cary Nederman (2000: 248) has argued that there are at least “two paths to classical republicanism, neither of which is more ‘authentic’ or ‘valid’ than the other.” These two paths are ‘rational republicanism’ (ibid.: 253), according to which “natural reason forms the cornerstone of human social relations” (ibid.: 254) and ‘rhetorical republicanism’ (ibid. 249), which “places a premium on public discourse” (ibid.: 258). For Nederman (ibid.: 248), both of these classical republicanism “embrace a conception of the common good as the goal of public affairs as well as a principle of civic virtue and a doctrine of *vivere civile* – all hallmarks of classical republican thought.” Audier (2004: 107) has also identified two distinct republican traditions, the ‘*républicanisme conflictuel*’ of Machiavelli and the ‘*volonté générale*’ of Rousseau, which correspond to rhetorical and rational republicanism.¹³ While Nederman traces this distinction to a certain tension in Cicero’s thought, it is probably simply a result of his eclectic Greek sources. Cicero most notably drew as much on Socratic dialogue, Aristotelian rhetoric and the scepticism of the New Academy as on the Platonism of the Old Academy and on Early and Middle Stoicism. This distinction cannot be attributed to a fundamental difference between Greek and Roman thought as it can be traced back to the pre-platonic debate over ‘the one and the many’ and to the debates between the Sophists and Socrates in Plato’s work.

¹² Audier (2004: 72) also points to Arendt as a republican thinker for the role of *vita activa* in her work. She also relied on Fink’s interpretation of Machiavelli and Harrington in *The Classical Republicans* (1945).

¹³ It is possible to interpret the general will as the voice of Reason.

This distinction is also reflected in Nadia Urbinati's (2002: 2) observation that John Stuart Mill did not subscribe to Constant's view of a dichotomy between modern and ancient liberty (1992). The practical political situation in France was such that liberals were at pains to distance themselves from eighteenth-century republicanism due to its association with Jacobinism and the Terror (Pocock, 2009: 137). Meanwhile, in England, liberals were faced with Tory attacks on democracy, which "juxtaposed a Spartan 'silent' *order* to an Athenian 'talking' *disorder*. In Mill's country, the 'reactionaries', not the republicans, defended Sparta" (Urbinati, 2002: 5). While in France, "Condorcet had already remarked that the notion of individual rights was absent from the legal conceptions of the Romans and Greeks" (Berlin, 1998: 201),¹⁴ in England George Grote mounted a defence of the Athenian democratic republic in his *History of Greece*, and notably of the link between democracy and individual rights, which was launched against the Spartan timocratic republic. This rhetorical use of Sparta and Athens again illustrates the distinction between oligarchic and democratic republicanism and underscores a Greek influence on republican thought.¹⁵ For this reason, one can also speak of a 'neo-Spartian' and 'neo-Athenian' republican tradition.

In any case, as Nederman (2000: 248) has pointed out, the disparities between rational and rhetorical republican thought "generate very different visions of republicanism, both in terms of duties of governors and the functions of the governed" and therefore cut across what I have termed patrician and plebeian republicanism. Whereas McCormick (2003) has opposed the anti-elitist 'democratic' political thought of Machiavelli to the elitist 'republican' thought of Guicciardini, Nederman (2000: 259-269) revisited the political thought of Marsilius of Padua, Nicholas of Cusa, Niccolò Machiavelli and James Harrington. Whereas Nicholas and Harrington relied more heavily on the rationalist strain of republicanism, Marsilius and Machiavelli drew upon the discursive dimensions. Given the social status of the Métis and the sources of republican discourse in the Red River Settlement, the particular strain of republicanism that is developed in the second chapter is that of democratic rhetorical republicanism.

¹⁴ Condorcet (1970: 109). Ironically, Condorcet had himself defended the model of Athens against the Jacobin preference for the model of Sparta (Audier, 2004: 36).

¹⁵ For Plato's use of Sparta as a model in the *Republic* (Πολιτεία) and *Laws*, see Rawson (1969: 61-72).

Republicanism...or Liberalism?

While I do not want to enter the contemporary analytical debate between the advocates of liberalism and republicanism, it could be claimed that the republican model I will construct in the second chapter is not in fact republican at all, but liberal, or at least a strain of political liberalism. The analytical distinction is however often difficult if not impossible to maintain from a strictly historical point of view. In the first place, the conceptual areas where republicanism and liberalism overlap may first of all very simply be vestiges of republicanism in present-day liberalism. Spitz (1995: 82) recognised that the republican tradition borrows from the same philosophical and metaphysical sources as liberalism. Viroli (2002: 6) agrees that, “liberal political theory has inherited a number of political ideas from classical republicanism,” and that from “an historical point of view, the relationship of liberalism to republicanism is one of derivation and innovation” (ibid.: 58). For this reason, Viroli (ibid.: 61) has argued that from “a theoretical point of view, liberalism can be considered an impoverished or incoherent republicanism.” Similarly, Kalyvas and Katznelson (2008: 4) have argued that “liberalism is not external to the history of republicanism.” These scholars go back to the beginnings of liberal thought and demonstrate how “liberalism as we know it was born from the spirit of republicanism, from attempts to adapt republicanism to the political, economic, and social revolutions of the eighteenth century and the first decades of the nineteenth” (ibid.).

Of course, given English political history, this is hardly surprising. When the Whigs, who had been the ‘country’ party, formed the government, the war with France forced them to adopt many of the Tory ‘court’ policies they had so condemned while in the opposition, to the point that by “1720, the Whigs *were* the ‘court’ party” (Stewart, 1986: 13). Meanwhile, the ‘old’ Whigs, who remained in the opposition and faithful to republican ideology, “kept up a running attack on these developments, based on seventeenth-century ‘country’ shibboleths” (ibid.). It is not surprising that the court Whigs, who later became Liberals, retained certain conventions of republican thought, such as the rule of law, the protection of an individual’s life, liberty and property, the separation of powers, a mixed constitution and the inevitability of social conflict (ibid.: 58-61), although they arguably altered the substantive content of such conventions.

Nor was the development of such derived doctrinal principles limited to the emergence of liberalism in the eighteenth century. Nadia Urbinati (2002) has recently underscored what might be termed the ‘democratic republican’ influence of ancient Athens on the political thought of John Stuart Mill. Likewise, Eugenio Biagini (1996b) has convincingly argued that not only John Stuart Mill’s political thought was heavily influenced by the model of Athens, but that republican conventions were present in the Liberal Party and diffused in the general population during the era of Gladstonian liberalism (2003). It is therefore open to question to what extent contemporary liberalism maintained or abandoned republican influences in the face of capitalism, industrialisation and political economy.

I would also argue, along with Kalyvas and Katznelson (2008: 4), that, as interesting as the contemporary liberal/republican debate may be, one must avoid ‘reading history backwards’. In this regard, Lance Banning mentioned that we cannot suppose “the analytical distinctions we detect were evident to those we study [...]. Logically, it may be inconsistent to be simultaneously liberal and classical. Historically it was not” (qtd. in Nelson, 2004: 198, note 10). Likewise, Gordon S. Wood (1987: 634), referring to the Founding Fathers of the United States, wrote that none of them “ever had any sense that he had to choose or was choosing between Machiavelli and Locke. [...] We ought to remember that these boxlike traditions into which the historical participants must be fitted are essentially our inventions, and as such distortions of past reality.” As Pocock (1985: 8) put it, “political language is by its nature ambivalent.” If this is true of the political language of the founding fathers of the Republic of the United States of America, who made efforts to clearly articulate their political theories, one should not expect to find clear-cut conceptual divisions between liberalism and republicanism in the discourse of political actors in Assiniboia. As Isaac (1988) has argued, rights-based liberalism at the level of civil society is not incompatible with virtue-based republicanism at the level of the public or common good, although there is inevitably a constant tension between the private and public spheres. In light of this distinction, the question is whether the discourse of the Métis during the Resistance emphasised their civil rights and freedoms or their political rights and their collective rights as a people. In the latter case, it could be said their discourse was far more republican than liberal in orientation.

To answer this, it must be determined whether republican conventions were part of the linguistic matrix and whether the Métis harnessed them in an attempt to legitimise what would otherwise be perceived of as an ‘untoward’ political act. To this end, I will first review the literature in the first chapter before presenting the theoretical framework that I will be working with to identify fragments of a republican discourse in Red River. In the field of history, the recent emphasis has been more on the aftermath of the Resistance, and the few studies that cover the Resistance itself look more at the social or economic – rather than the political – ‘causes’. Like history, legal studies have concentrated on the implementation of s. 31 of the *Manitoba Act, 1870*, and have not really bothered with what the Métis had fought for in terms of land claims during the Resistance. In the field of the history of political ideas in Canada, very few studies have in fact taken seriously political discourse in Red River, and among these there are no real sustained analyses of substantive content. For their part, Métis studies have tended to lean away from the political history of the Métis and concentrate on issues of identity or on socio-economic trajectory of particular families or even on genealogy. In the second half of the chapter, I present the theoretical framework of the Cambridge School, and notably Quentin Skinner’s approach for the study of the history of political ideas, that will be used to identify republican fragments in the discourse of the Resistance.

The research proposition that will be verified here is that different republican conventions were gradually introduced into the District of Assiniboia from multiple sources during the period from 1835 to 1870. By the time the Resistance took place in 1869, a more or less fully developed republican paradigm formed part of the linguistic matrix and was available to political actors in Assiniboia. The challenge for the leaders of the Resistance was to justify and legitimate actions that many considered not only to be untoward, but illegal, if not outright treasonous. While republican language was not the only language used during the Resistance, it was fundamental to the success of the ideological manoeuvre of the leaders and therefore to their political manoeuvre – resisting the unilateral annexation to the Canadian federation and establishing a provisional government. The rhetoric of liberty, both positive and negative, that lies at the heart of republican discourse was particularly effective both as an instrument of anti-colonialism and as a pragmatic ideal of self-government that promised to correct the iniquities of colonial government.

In the second chapter, I will develop a model of democratic rhetorical republicanism based on the conventions in republican literature. I will first consider republican liberty before considering how positive liberty, negative liberty as non-interference and negative liberty as non-domination fit into the discursive republican model. After having demonstrated that liberty as non-domination is really about security, I will consider the various ways that republican institutions try to preserve and guarantee both positive and negative liberty, first through the principle of the rule of law, then through the mixed and balanced constitution and finally through the various elements of citizenship, including the role of virtue, but also its cultivation in the militia and its safeguard in real property. Part of my goal here is to show that what are often considered as liberal conventions can be easily enough traced to classical republican sources.

In the third chapter, I will begin to analyse both the circulation and mobilisation of republican rhetoric in the District of Assiniboia in the quarter-century preceding the Resistance. I will begin with the Métis struggle with the HBC for their civil rights in the form of free trade and the right to contract in 1846 and their struggle for political rights that culminated in the Sayer Trial of 1849. While my thesis concentrates on the political discourse of the Métis, it is impossible to ignore the contributions of the English or Scots Half-Breeds to political discourse in Assiniboia. Following the Sayer trial, the focus will therefore switch to the political discourse that was diffused in the Half-Breed section of the Settlement following the watershed year of 1857. In that year, an Imperial Parliamentary committee scrutinised the HBC's activities in Rupert's Land and advised either raising the District of Assiniboia to Crown Colony status or annexing it to the United Canadas. The positive reports of two expeditions concerning the quality of the soil and mineral resources raised the stakes and further fuelled the annexationist movement. The annexation movement in Canada-West introduced or reinforced certain republican conventions, especially through the establishment of the Settlement's first newspaper in 1859. On the other hand, individuals like the Anglican Reverend Corbett and the Half-Breed James Ross who agitated for Crown Colony status used the language of English 'country' opposition against both both the annexationist option and the continued governance of the Governor and Council of Assiniboia.

In the fourth chapter, I will briefly consider five different potential sources of republican discourse in the Red River Settlement: France, Ireland, the United States, Upper Canada and Lower Canada in order to clearly establish that republican conventions made up part of the linguistic matrix of the Settlement. Just as the Métis did not simply spontaneously create linguistic conventions, but used the available languages, the effective establishment of a Provisional Government was preceded by several earlier efforts to do so. Again, what I am interested in here is the political language that was used to justify the establishment of institutions of self-government. Following this, the focus will shift to the government institutions that the federal government attempted to create for the North-West Territory, a model that replicated in many ways the institutions of the Family Compact in Upper Canada and the Chateau Clique in Lower Canada prior to the Rebellions of 1837-1838 and therefore rendered the activation of republican conventions all the more likely. This will set the stage to enter into the political discourse of the Resistance itself, first in the creation and actions of the Métis National Committee, followed by the debates of the first Convention and the content of the first *List of Rights*, then the *Declaration* that established the first Provisional Government. This chapter then concludes with a consideration of the second Convention that ended with the creation of a second Provisional Government.

The fifth and final chapter will then apply the grid of analysis developed in the second chapter to identify republican fragments in the political discourse of various speech acts during the Resistance. I will first look at how liberty was conceived, before considering whether one can identify fragments of the conventions of both positive and negative liberty. I will then consider the question of the rule of law and balanced constitution. The latter will involve considering both the mixed ‘organic’ constitution and the ‘mechanical’ balanced constitution, that is, the monarchical, aristocratic and popular principles as well as the executive, judicial and legislative functions. It is also necessary to consider whether there were conceptions of legislative control of the arbitrary prerogative of the executive. Finally, the last section will consider Métis conceptions of citizenship, most notably the kind of virtue they could be said to have possessed, the natural adaptedness of their lifestyle to a militia and the political aspects of their land claims in order to secure the political rights of future generations, and thereby guarantee a certain degree of self-government in the new province.

1. Review of Literature and Theoretical Framework

The question of the role of republican ideology in the history of Western political thought was opened up by early pioneers such as Zera Fink (1945), who studied its role in seventeenth-century England, and Hans Baron (1955), who looked at it in the context of Renaissance Italy. A somewhat less acknowledged source are the works of Hannah Arendt, notably her book *On Revolution* (2006 [1963]) and her essay “What is Freedom?” (2000 [1960]). Arendt (2006: 304) was familiar with Fink’s “excellent study” and found that it was “unfortunate indeed that a similar study ‘to evaluate exactly the influence of the ancient philosophers and historians upon the formulation of the American system of Government’, which Gilbert Chinard [1940] proposed [...] has never been undertaken.” Such a study was subsequently pursued by scholars such as Bernard Bailyn (1992 [1967]) and Gordon Wood (1969). The archaeological work of recovering republican thought was more systematically developed by the Cambridge School,¹⁶ beginning with the works of John Pocock (2003 [1975]), Quentin Skinner (1998a; 1998b [1978]) and John Dunn (1969). More recently, Canadian scholars have begun to investigate the potential role, if there be one, of republican thought in the history of political thought in Canada. Gordon Stewart (1986) relied notably on Bailyn’s (1992) study of pre-revolutionary Usonian political discourse, but used it principally as a foil to underline Canada’s particular ‘court’ political culture as opposed to

¹⁶ The ‘Cambridge School’ refers to the method of textual interpretation of John Pocock, Quentin Skinner and John Dunn that involves putting ‘ideas in context’ and is notably inspired by the anti-analytical linguistic approach of the later Wittgenstein, the speech theories of John Langshaw Austin, John P. Searle and Herbert Paul Grice and the works of Peter Laslett and Robin George Collingwood.

Usonian ‘country’ political culture. While Stewart (ibid.: 27) recognised that “there were sparks of ‘country’ rhetoric aimed at the Chateau Clique in Lower Canada,” he nevertheless concluded that “no classic ‘country’ opposition [...] took root in Lower Canada.” In his view, the ‘court’ orientation was “so deeply embedded in the Canadas that even the opposition accepted its assumptions” (ibid.: 29). Stewart’s claims have not gone unchallenged. While both Robert Vipond (1991) and Paul Romney (1999) refer to ‘nineteenth-century liberalism’ rather than republicanism, their analyses nevertheless reveal that republican conventions, which can be traced back to seventeenth century English republicanism (or civic humanism), were present in political discourse during the nineteenth-century in Upper Canada/Canada West. Peter J. Smith (1997a; 1997b) has criticised more directly Stewart’s claims and identified a certain residue of republican thought in Upper Canada. As for Stewart’s thesis concerning Lower Canada, both Allan Greer (1993) and Louis-Georges Harvey (2005) have looked at the presence of republican ideas in the political discourse of the *Patriotes* in Lower Canada until 1837.

However, no one has yet ventured to consider the possibility that republican conventions were present in the political discourse of the Métis during the nineteenth-century, and most notably during the Resistance of 1869-1870. Yet, anyone who has studied the documentation of the period would be aware that, when the Métis began to take measures to resist unilateral annexation of Rupert’s Land and the North-West Territory into the Canadian federation, some contemporaries branded the movement ‘republican’. To provide but a few examples of this, following the seizure of Upper Fort Garry, Governor McTavish (1815-1870) claimed that the Métis offered to pay for their provisions under the name of the “Council of Republic of the half-breeds” (Canada, 1870: 134).¹⁷ Likewise, Joseph James Hargrave (1841-1891)¹⁸ claimed that the “insurgents had represented themselves as being constituted into a corporate body, called the “Republic of the Half-Breeds” (Bumsted, 2003: 102) and that the newspaper *The New Nation* was “the organ of the ‘Half-breed Republic’” (ibid.: 196). In what

¹⁷ Governor of Assiniboia from 1858-1870. Born in Edinburgh, Scotland, he came to the Bay as an apprentice in 1833. He married Mary Sarah McDermot, the mixed-blood Catholic daughter of Andrew McDermot (1789-1881) and sister of Annie McDermot Bannatyne, making Andrew Graham Ballenden Bannatyne (1829-1889), who served as postmaster under the Provisional Government, his brother-in-law. Both McDermot and Bannatyne were traders and the latter formed a partnership with the historian Alexander Begg in 1868.

¹⁸ Born at York Factory, he was educated in Scotland and entered HBC service in 1861. He was the private secretary of William McTavish during the period of the Resistance. In 1871, he published *Red River*, which covered the history of the Settlement in the 1860s (Bumsted, 1996: 286).

Lieutenant-Governor designate, William McDougall (1822-1905) simply called an excerpt “from a letter written by a young Englishman” (Canada, 1870: 38) dated 11 November, he claimed that the “Government now established is a Republic” (ibid.: 40). Colonel John Stoughton Dennis (1820-1885)¹⁹ reported to McDougall that “Riel evidently pointed to a Republic, but would not say so directly” (Canada, 1870: 55) and on 19 November speculated on whether “the majority, now deliberating,” would decide “for a Republic or other illegal form of Government” (ibid.). Major J. Wallace wrote to McDougall sometime between 4 and 22 November 1869 that the “movement from the first has been of a Fenian Republican kind” (*New Nation*, 15 April 1870: 1). Historian Alexander Begg (1839-1897), who was a resident of Assiniboia during the Resistance, wrote that when the second Provisional Government was formed, the official newspaper of the provisional government, *The New Nation*, concluded an article with the expression ‘Vive la République’ (Begg, 1871: 273; *New Nation*, 11 February 1870: supplement).

In themselves, such references are not sufficient to prove that there was any substantive republican political theory behind what may amount to nothing more than empty rhetoric. One rarely, if ever, finds the Métis referring to the Provisional Government as a republic. Prior to declaring a provisional government on 8 December 1869, the Métis simply called their organisation the *Comité national des Métis* (Riel, 1985a: 21) or the ‘President and Representatives of the French-speaking population of Rupert’s Land in Council’ (ibid.: 22). If the expression ‘Vive la République’ appeared in *The New Nation*, it may have been Henry M. Robinson (1845-1907), a Usonian annexationist who initially owned the paper (Morton, 1969: 85) who inserted the expression.

On the other hand, the absence of any explicit reference to a republic does not necessarily mean the Métis were not thinking republican thoughts. As Plato (1921: 271) put it: “as to the thing to which we give the name, we may perhaps each have a conception of it in our own minds; however, we ought always in every instance to come to agreement about the thing itself by argument rather than about the mere name without argument.” Without necessarily adhering to the ontological implications of Plato’s phrase, the presence of the signifier ‘republic’ or ‘republican’ is insufficient in itself to qualify the political discourse in

¹⁹ Born in Kingston, Upper Canada, Dennis was educated at Victoria College. He then qualified as a land surveyor. In 1869 he was instructed by the Canadian federal government to go to the Red River Settlement to report on a system of surveys for the western interior.

Assiniboia as being ‘republican’. As Arendt (2000: 498) once said of Machiavelli, that “though he never used the word, [he] was the first to conceive of a revolution” in the sense of founding a new political body. Similarly, it may very well be that although the Métis never used the word ‘republic’, they nevertheless conceived of their movement as republican in all but name. In other words, the absence of such signifiers does not necessarily indicate that republican conventions were completely absent from political discourse in Assiniboia.

The situation is all the more complicated in that the use of the term ‘republican’ in British North America was a derogatory term almost exclusively associated with the United States and generally implied disloyalty to the British Crown. For example, when defending the Manitoba Bill, Nova Scotia M.P., Adam Archibald (1814-1892) felt the need to reassure the House of Commons that “the half-breeds of French origin in the territory reflect the loyalty which they inherit from both races. They have no sympathy with republican institutions.” What he meant by ‘republican’ was clear when he added that the Métis “have no sympathy with the people and no regard for the institutions of their Southern neighbours” (Canada, 1870: 1431). Although Archibald did mention republican institutions, the term ‘republican’ was generally used more as a rhetorical device that called to memory the Usonian Revolution or War of Independence as an act of treason and thereby expressed anti-Usonian sentiment than as a rejection of republican political thought *per se*. In effect, “the proximity of the democratic republic placed limits on Canadian oppositions. To push opposition too far could quickly be tainted with the brush of disloyalty” (Stewart, 1986: 30). Such nuances would surely not have been lost on a British North American audience, where the illocutionary act of declaring a republican form of government would have necessarily had the illocutionary effect of a declaration of sovereignty, and therefore of treason. Simply moving “too far towards some democratic check on the executive [...] was easily portrayed in the Canadas as an attempt to introduce American-style republicanism” (ibid.). Like their Usonian predecessors, the leaders of the Resistance may have considered it too risky to use the word ‘republican’ imprudently and consequently cloaked their demands for civil freedoms and political rights in the language of the rights of British subjects.

1.1. General Question

Given the presence of republican ideas in Canadian political discourse and multiple references to a republic and republicanism in Assiniboia during the Resistance, *what previous attempts have been made to analyse political discourse in Assiniboia in general and specifically to establish whether or not the references to republicanism during the Resistance were merely rhetorical devices?*

1.2. Review of the literature

The elaboration of a problematic from the existing literature concerning the question of the political thought of the Métis presents a triple challenge. The first aspect of this challenge ensues from the fact that, with one or two exceptions, no scholar has specifically set out to study the political discourse of the Resistance such as it was conceived by the Métis and their leaders at that time. Ever since the Resistance took place, the particular obsession of historians has been to explain its ‘causes’, whether it be the result of religious, ethnic, linguistic, economic, cultural, class and/or social tensions or differences. In this context, the role of political ideas, if at all raised, is usually treated as one factor among many others and is more often simply asserted rather than proven. Moreover, even when political ideas are mentioned, there have been few systematic analyses of political discourse in Assiniboia. For this reason, I will not be so much concerned with the general theses of specific authors, which are more or less relevant to this study, as with the particular treatment of the role and content of political ideas in various works that refer to the Resistance.

The second challenge results from the fact that the scholarly works that have addressed the issue of the Resistance have almost exclusively come out of the disciplines of history and law. According to Olivier et al. (2005: 28), the interest and the relevancy of the works of social scientists “reposit avant tout sur les connaissances théoriques qui se sont développées dans leurs disciplines respectives. Ils cherchent à s’inscrire à l’intérieur des débats théoriques, méthodologiques et épistémologiques qui traversent leur discipline.” It is difficult to situate my thesis relative to previous research in the social sciences generally, or in political studies specifically, as there is little existent literature or theoretical debate concerning political thought in Assiniboia during the Resistance.

The third challenge concerns the time period on which most of the literature concentrates. One of the likely reasons that the field has been so dominated by jurists and historians is that the federal government began funding the Manitoba Métis Federation (MMF) in the late 1960s and provided research grants for Métis land claims. This eventually resulted in the *MMF* case being filed in 1981, which was pending for some twenty-five years. As a result, most recent political history and legal research has been primarily concerned with implementation of s. 31, and therefore the period after 1870. Few have taken the trouble to research in any substantive detail Métis political discourse before and during the Resistance. The only exception to this is political scientist Thomas Flanagan, who, despite often qualifying himself as an historian when working on Métis issues, has written articles on “Political Theory of the Red River Resistance: The *Declaration* of December 8, 1869” (1978) and “The Political Thought of Louis Riel” (1979).

With these caveats in mind, it can also be asserted that not only republican discourse in particular, but political thought in general in Assiniboia prior to and during the Métis Resistance of 1869-70 has not been taken seriously in the field of Canadian political thought or the history of political ideas in Canada. For example, when Manitoba law professor George Bryce presented a paper on the “Two Provisional Governments in Manitoba” (1890) to the Historical Society of Manitoba, he was more concerned with denouncing the illegality of the ‘Riel Rebellion’ and the Provisional Government than with discussing the origin of the four *List of Rights* produced during the Resistance or analysing their content. For Bryce (*ibid.*: 3) the Resistance was simply a matter of “the restless character of the French half-breeds, who, as hunters and traders, were accustomed to the use of firearms, had a hereditary bent toward insubordination, and were led by a few daring leaders” to ‘rebellion’. The fact that Father Georges Dugas (1905: 125) felt the need to hold out that the “forme classique, énergique et solennelle” of the *Declaration* was proof that “Riel n’était pas un simple chef illettré d’une bande de chasseurs” shows to what extent such claims were commonplace. George Stanley saw the first *List* in the light of the semi-mythical Canadian spirit of pragmatism. He emphasised that “Riel’s proposals” in the first *List of Rights* were not prefaced by “philosophical abstractions. They were simple and practical” (1978: 80). Likewise, Morton (1937: 102) was unable to give the Métis any credit for the fourth *List of Rights*, claiming “the definition of the terms lay ultimately in the skilful hands of Bishop

Taché.” Frits Pannekoek (1979: 83) asked rhetorically whether the Resistance itself was “really anything more than a grand mutiny of the boat brigades” or possibly even nothing more than “a hysterical reaction by the Métis to the religious railings of the Canadians and their English half-breed supporters.”

There were some contemporary voices, such as that of Georges-Étienne Cartier (Canada, 1870: 1457), who stated in the House of Commons that he thought “the conference at Red River would contrast favourably with theirs at Québec.” He was nevertheless greeted with a reply of “ironical hears”. Likewise, U.S. Consul James Wickes Taylor, who had been a secret agent in Red River for the U.S. Federal Government during the Resistance (Bowsfield, 1968: xxxiv), stated in 1882 that, “although he had been a careful reader of the debates in the constitutional assemblies of the American States, those debates by the representatives of Red River, in regard to their own rights and privileges, compared favourably with any similar discussions with which he was familiar” (McArthur, 1882). Despite Stanley’s (1978: 80) claim that ‘Riel’s proposals’ in the first *List* were not prefaced by ‘philosophical abstractions’, but were ‘simple and practical’, he nevertheless saw in the third *List of Rights* “astonishing evidence of the political understanding of Louis Riel and his half-breed associates” (1961: 114).

Historian Lewis Herbert Thomas (1978: 37) remarked that the first *List of Rights* was “a striking example of American, British, and French Canadian political ideas in this little settlement at the crossroads of the Canadian and American frontiers.” If it “had not been merged in a consistent and mature synthesis,” it was nevertheless a product “thoroughly democratic in spirit.” According to Thomas, in the second *List*, “American influence was less in evidence, with the result that most of the terms were consistent with British political usage” (ibid.: 40). As the “new clauses dealt with practical issues”, it is seen as “a well-considered and reasonable presentation of popular rights and legitimate local interests (ibid.: 40-41). Nevertheless, Thomas found that it was “expediency rather than political conviction [that] produced the Manitoba Act” (ibid.: 43). This may of course be true from the federal government’s point of view. Macdonald did claim that the object to be gained was “the quiet and peaceable acceptance of the new state of things by the mass of the people there [...]” (ibid.). But such statements presume that principle and expediency – or compromise – are mutually exclusive, ignore that fact that it was not necessarily so from the point of view of

the Métis, and that the principles on which the *Act* is based are to be found in the various *Lists of Rights*, not in the mouths of wily politicians trying to get a bill through Parliament. Although Thomas, contrary to Morton and Flanagan, concluded that the “point of greatest concern to the métis was obviously not popular rule but rather minority rights” (ibid.: 44), his entire book is about the struggle to implement the principle of self-government in the North-West. As W.L. Morton (1937: 105) remarked, perhaps somewhat unwittingly, the “Dominion recognized rather than created” when it embodied the terms of the fourth *List of Rights* in legal form in the *Manitoba Act, 1870* (ibid.: 102). It would therefore be clearly inaccurate to say that the latter was simply a matter of expediency and not of principle.

In one of the few pieces that takes political ideas in Red River seriously, Flanagan (1978) has traced some of the intellectual sources of the *Declaration*. Although Flanagan largely failed to compare it with other contemporary sources produced during the Resistance, he did make some attempt to use an inter-textual approach. He noted that the *Declaration* expressed “ideas which were already current in the Métis movement” (ibid.: 158). The first text he compared it to was the Usonian *Declaration of Independence* (ibid.: 158). The Métis *Declaration*, however, “was far more conservative” as it “made no sweeping claims for liberty or natural rights” (ibid.: 159). Flanagan noted that the French version cites William Barclay (1541-1605), a monarchist opposed to both ultramontanes and monarchomachs, and Jean-Baptiste du Voisin (1744-1813), a churchman who defended the *ancien régime* against the French Revolution. Flanagan demonstrated an interesting correspondence between the *Declaration* and excerpts from Voisin’s *Défense de l’ordre social contre les principes de la Révolution française* (1801). It is undoubtedly true that the authors “had to search the Catholic tradition in which they had been educated for a precedent to justify resistance against authority” (ibid.: 164). It is less certain that the “most important point in all this is to see that the Declaration emerges from very conservative antecedents. Dugas and Riel were not revolutionary theorists” (ibid.). While Riel’s thought gradually became more anti-liberal after 1874 and especially after 1876 (Flanagan, 1979: 154-157), I am only concerned with his writings during the Resistance itself, with a few exceptions taken from the period 1870-74.

One of the problems is that it is not entirely certain who wrote the *Declaration*. Flanagan (1978: 139; see Riel, 1985a: 38, note 1) noted that while “one might assume that the

Declaration was Riel's work," the original French text was "written in the hand of Father Dugas."²⁰ It is not clear, however, whether Dugas was "author, adviser, or merely amanuensis" (Flanagan, 1979: 158). While A.G. Morice (1935: 162) noted that it had "long been attributed to a certain Enos Stutzman [*sic*]," he claimed that Dugas had written it at Riel's request. Flanagan does not mention that, despite his public remark that 'Riel n'était pas un simple chef illettré', Dugas (1949: 115) later claimed co-authorship of the *Declaration* in a private letter, stating: "C'est M^c Ritchot et moi qui avons non seulement dirigé, mais poussé à cette résistance au gouvernement canadien. [...] Jamais les métis ignorants n'auraient pu songer à revendiquer des droits constitutionnels si M^c Ritchot et moi ne le leur eussions faits connaître. Sans Ritchot et moi, le mouvement reste inexplicable." Ritchot claimed Riel was not present and did not participate in the composition (Riel, 1985a: 38, note 1).²¹

Even if it is true that Riel, at the very least, did in a sense make it his own when he took the time to read it and signed it (Pouliot, 1943: 358), this does not prove that he was fully aware of Barclay or Voisin's ideas, much less that he wholeheartedly endorsed the entirety of their doctrine. Furthermore, given that the Métis were known to be in consultation with the Usonian treasury agent, Enos Stutsman (1826-1874), when they wrote up the first *List of Rights* and that Lestanc had made a number of suggestions to Riel concerning the second *List* (Stanley, 1961: 94), Dugas was not the only one to contribute to the political discourse of the Resistance. In addition, not only did the *Nor'-Wester* churn out political ideas every week or so throughout the 1860s, previous conflicts had produced their share of political discourse in the Settlement long before either Dugas or Ritchot has settled there.

Elsewhere, Flanagan has noted other intellectual sources, insisting both that the philosophy underlying the Resistance involved nothing more than rights "as British subjects, pure and simple" (qtd. in *Blais*, 1997: 155), and, somewhat contrary to this latter assertion, that the Métis based their claims on the Law of Nations (1978: 161-163; *Blais*, 1997: 159). While Flanagan (1979) has written on Riel's political thought, he was primarily concerned

²⁰ Georges Dugas (1833-1928): born in Lower Canada, at St. Jacques de l'Achigan and studied at L'Assomption College. He was ordained in 1862, coming to Red River as a missionary in 1866. His attitude toward the Aboriginal people was that they "must be ruled by fear just as we tame wild animals by exerting that power."

²¹ Reverend Noël-Joseph Ritchot (1825-1905): Born in L'Assomption, Lower Canada, he came to Red River in 1862 and became priest at the Métis parish of St. Norbert (Bumsted, 1996: 318).

with Riel's nationalism, his doctrine of derivative Indian title and his messianic thought after 1876. Interestingly, Flanagan (ibid.: 157) notes that "Riel was concerned with freedom chiefly in the sense of group autonomy" and that as "a moral reformer, [Riel] disliked the individual liberty of free society," but unfortunately made no connexion to the concepts of positive and negative liberty.

While Janet Ajzenstat, Paul Romney, and Ian Gentles (2003) took the ideas expressed during the debates of the Convention of Forty seriously enough to publish certain excerpts, they made little attempt to analyse or contextualise them. For his part, Ian Angus (2005: 888) provides an original analysis of the *Declaration of the People of Rupert's Land and the North-West* and the *Proclamation to the Inhabitants of the North and the North-West* that shows how Riel grounded the claim of the Métis to a right of 'independence' or 'self-constitution'. While his conclusions are particularly relevant in terms of Riel's motives and the perlocutionary effect of such texts, the analysis itself is limited to a few excerpts. He neither inserts these expressions into the context of other enunciations made by Riel and others, nor does he show what Riel was doing when he used the language he did relative to the available conventions. In summary, no one has systematically analysed political thought in Red River as it was expressed in the *List of Rights*, the debates of the Convention, the debates of the Provisional Government, the *Declaration*, *The New Nation* newspaper, and other documents.

If academic literature has generally ignored political ideas in Assiniboia, some of the recent literature in the field of Canadian Politics, or more precisely in the sub-field of the history of Canadian political ideas, has unfortunately obscured the precise content of republicanism. For example, Ajzenstat and P. Smith (1997: 8-9) associate 'republicanism' with 'radical democrats' such as the *Parti patriote* in Lower Canada and the Reform Party in Upper Canada, and portray 'liberals' as defenders of the mixed constitution. Yet, as Harvey (1997: 99) has demonstrated, the *Patriotes* in fact, "envisaged an upper house that would act as a balance against the will of the people" and were generally in favour of a mixed constitution. Ajzenstat (1997: 215) also associates Étienne Parent with liberalism because he argued that "the problems of Lower Canada did not stem from supposed flaws in British institutions but from a failure to put British principles into practice," and that in "particular the principle of the 'independence' of the three parliamentary branches had been allowed to

lapse.” Yet, this was precisely the strategy of Usonian republican discourse prior to the War of Independence (Wood, 1969: 10-17; Bailyn, 1992: 121, 130). Generally speaking, Ajzenstat (1997) fails to take into account the evolution of Papineau’s and the *Parti patriote*’s political discourse, especially after 1830 (Harvey, 1997: 93; 2005: 133-193).

In this, the *Patriotes* closely followed the trajectory of Usonian republicans. As Greer (1993: 121) has noted, “the *Canadien* group was eventually able (and with no hypocrisy) to express and justify its opposition to the government in terms of theories framed to demonstrate the perfection of Great Britain’s ‘balanced constitution’.” In doing so, they “were recapitulating the intellectual voyage of English radicals and American colonists of the eighteenth century, who had also developed a ‘country ideology’ of opposition from the malleable materials of ruling-class thought” (ibid.). In both cases, they only resorted to more radical solutions when faced with not only a refusal on the part of Imperial government of any compromise, but a hardening of Imperial attitudes toward the independence of colonial assemblies (Greer, 1993: 124, 137; Bailyn, 1992: 94-143; Wood, 1969: 39-43). There is therefore some need in the field of Canadian political thought to investigate the content of republican discourse.

As for the contemporary literature in the field of Métis Studies, there are two identifiable tendencies with which my thesis is concerned. First of all, as Pannekoek (2001: 111) so bluntly put it, a “new dynamic is forcing Metis historiography out of the bog of Red River in which some argue it has been mired for too long.” In this regard, T. Nicks and K. Morgan (1985: 173) spoke of “Red River myopia” due to what they perceive as an overemphasis on the Red River Métis. A second tendency is to stress the social and economic history of the Métis rather than their political history, with a particular emphasis on identity. The very titles of four of the most recent publications, *The Long Journey of a Forgotten People: Métis Identities and Family Histories* (Lischke and McNab, 2007), *We Know Who We Are. Métis Identity in a Montana Community* (M. Foster, 2006), *Saint-Laurent, Manitoba. Evolving Métis Identities, 1850-1914* (St-Onge, 2004) and *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan* (Macdougall, 2010), are a strong indication of such scholarly trends. Pannekoek (2001: 121) noted that the “preponderant interest, particularly of scholars in American institutions, would seem to focus on issues of identity, and the interplay of gender, race and class” and predicted that the focus in Métis studies

“will continue to be on the issues relating to identity formation” (ibid.: 123). However, as Pannekoek (ibid.: 113, 119-120) himself recognised, Métis historiography has long placed an emphasis on individual biographies and genealogy as well as gender issues (Brown, 1980; Van Kirk, 1980; Peterson, 1985; J. Foster, 1985; 2001; Thorne, 1996; Kermoal, 2006; Thistle, 2008) not to mention class (St-Onge, 1983).

In this regard, it is interesting to note that Pocock (2009: 244) remarked that the emphasis on social history in general is due to the exclusion from ‘classic’ or ‘traditional’ history which emphasized political and military events, and therefore an aristocratic, bourgeois and male dominated narrative. The turn toward social history has often produced “an infinite series of micro-narratives, micro-moments and micro-managements” (ibid.: 245). Trigger (1975: 51) also remarked that the unit of analysis in anthropology ranged from ‘society’ as a whole on one end of the scale to the biography, “which at its best is a perceptive examination of the social forces at work in a particular situation as these can be related to the life of a well-documented individual.” While this may in itself be an act of subversion to write the micro-history of those who have been excluded from, or simply subjected to, macro-history, it allows reactionaries to use it as a counter-subversive move. For example, it can be used to reinforce the perception of the Métis as a *social* problem rather than a *political* problem. That is, they are a *population* for whom the government creates special social programmes aimed at *individuals* in order to facilitate their *economic* and *social* integration – and assimilation – into ‘whitestream’ society, as Claude Denis (1997: 13) has termed it,²² rather than a *people* to be negotiated with *collectively* to redistribute *political* power.

To summarise the review of literature, while there are several contemporary references to republicanism at the time of the Resistance, it is unclear whether there was any substantive content to such epithets. The studies that have been carried out on the Resistance have mostly been carried out in the fields of history and law. Whereas the former concentrate on the social or economic ‘causes’ of the Resistance, the latter tend to concentrate on the period following the Resistance. There have been few in-depth studies of political discourse in Assiniboia in general, and much less any particular analysis of the conventions of republican

²² This was to indicate that “Canadian society, while principally structured on the basis of the European, ‘white’, experience, is far from being simply ‘white’ in socio-demographic, economic and cultural terms” (Denis, 1997: 13, note 5).

thought. In the sub-field of the history of Canadian political ideas, there is some confusion around the definition of republicanism and how it differs from liberalism. In the field of Métis studies, there is a tendency to leave political history aside altogether and insist on social history and individual trajectories.

1.3. Research Questions

What is the specific constellation of conventions that make up democratic rhetorical republicanism? Is there any evidence that such a constellation of conventions, those of democratic rhetorical republicanism, were present in political discourse in Assiniboia prior to the Métis Resistance? If so, is there evidence of the effective activation of democratic rhetorical republican conventions during the Resistance?

1.4. Research Propositions

The research propositions²³ are that different republican conventions were gradually introduced into the District of Assiniboia from multiple sources, including the United States, Lower Canada, Upper Canada, Ireland, France and Great Britain during the period from 1800 to 1870. By the time the Resistance took place in 1869, a more or less fully developed republican paradigm formed part of the linguistic matrix and was available to political actors in Assiniboia. The challenge for the leaders of the Resistance was to justify and legitimate actions that many considered not only to be morally untoward, but illegal or even outright treasonous. While republican language was not the only language used during the Resistance, it was fundamental to the success of the ideological manoeuvre of the leaders and therefore to their political manoeuvre – resisting the unilateral annexation to the Canadian federation and establishing a provisional government. As the precedents in England, the Thirteen Colonies, and in Upper and Lower Canada all demonstrate, the cry for liberty, both positive and negative, that lies at the heart of republican discourse was that of the opposition. It was particularly effective both as an instrument of anti-colonialism and as

²³ I use the term ‘research proposition’ instead of ‘hypotheses’. A hypothesis explores the relation between at least two variables, usually a dependant and independent variable and claims to have the capacity to explain the relation between the two in causal terms. A research proposition aims at giving a new meaning to a given phenomenon. It explores the relation between *concepts* rather than variables and looks at understanding a phenomenon through interpretation rather than explaining it causally. For this reason, the validity of a research proposition is a question of verification rather than falsification. See Olivier et al. (2005: 80-82).

a pragmatic ideal of self-government that promised to correct the iniquities of colonial government.

1.5. The Cambridge School: History of Political Discourse

The verification of the research propositions basically involves analysing contemporary documents in order to identify traces or fragments of political discourse and comparing them with what can be considered a republican discourse. Since this involves textual interpretation, I will use the approach of the Cambridge School, or more specifically that of Quentin Skinner. However, rather than rigorously applying Skinner's method, which was developed to study the history of political ideas, I will modify it somewhat in order to apply it to the particular political phenomena that I wish to study. Skinner's theoretical approach was initially conceived for a project – the formation of *Modern Political Thought and the modern State* (1998a; 1998b) – that is far more ambitious than that of my thesis. I am not so much interested in interpreting the 'classical' texts of political thought, much less a particular author's work or a single text or even the subsequent recuperation of a text in a particular, local struggle. In a sense, the objective of my project is closer to what Pocock (1985: 1-2) termed the 'history of political *discourse*' rather than political *thought* or political *ideas*, although I share Skinner's conception of language as being constitutive rather than determinative. The distinction between *thought* and *discourse* can be found in Pocock's (ibid.: 24) remark when he contrasted the work of Thomas Hobbes, "who claimed from the outset of his publications to be embarked on a philosophical enterprise of a specific kind," with that of Edmund Burke, "who delivered speeches and wrote pamphlets on a variety of occasions in the course of an active political life." As Pocock (ibid.) put it, not "all the great intelligences who have engaged in political discourse have engaged, directly or indirectly, in systematic political theorizing."

If my objective is not to show "the general framework within which the writings of *the more prominent theorists* can be situated" (Skinner, 1998a: xi), it is nevertheless possible to apply Skinner's approach in attempting to reconstruct the "general social and intellectual matrix" (1998a: x) in which the population of the District of Assiniboia was immersed. In this regard, Skinner's approach was conceived as a way of interpreting texts, or what he has himself called his 'hermeneutic enterprise'. As my research method is primarily concerned

with interpreting written historical documents, it consequently raises the essential question that is confronted in the studying of any given text, that is “what the author, in writing at the time he did write for the audience he intended to address, could in practice have been intending to communicate by the utterance of this given utterance” (Skinner, 1988a: 63). Similarly, Isaiah Berlin (1998: 193) held that “[p]olitical words and notions and acts are not intelligible save in the context of the issues that divide the men who use them.”

James Tully (1988: 8) has conveniently systematised Skinner’s method into five steps or components. It is worth noting that these components of Skinner’s approach are not necessarily as consecutive or exclusive as the term ‘step’ would seem to suggest. At times, it is necessary to deal with several aspects simultaneously. While this synthesis is Tully’s and not Skinner’s, Tully supports each aspect with ample citations from Skinner’s works. For the sake of convenience to the reader, I shall simply refer to this synthesis as ‘Skinner’s approach’.

The first step seeks to understand what an author was doing “in writing a text in relation to other available texts which make up the ideological context” (ibid.: 8). In order to do so, it is necessary to “situate the text in its linguistic or ideological context: the collection of texts written or used in the same period, addressed to the same or similar issues and sharing a number of conventions” (ibid.: 9). For Tully (ibid.), an ‘ideology’ is simply “a language of politics defined by its conventions and employed by a number of writers.” The other available texts in reaction to which republican ideology was exploited included the political discourse of recent immigrants from Upper Canada, the local newspaper, the *Nor’-Wester*, the terms of the agreement between the HBC and Canada for the transfer of Rupert’s Land, and the *Act for the Temporary Government of Rupert’s Land, 1869*.

The second step seeks to understand what an author was doing “in writing a text in relation to available and problematic political action which makes up the practical context” (ibid.: 8), or more precisely, what was “an author doing in manipulating the available ideological conventions” (ibid.: 10). This involves placing “the text in its practical political context: that is the problematic political activity or ‘relevant characteristics’ of the society the author addresses and to which the text is a response” (ibid.). This is because it is “political life itself [that] sets the main problems for the political theorist”, since it causes “a certain range of issues to appear problematic, and a corresponding range of questions to

become the leading subjects of debate” (Skinner, 1998a: xi). In this regard, it could be said that the “substance of the political is contained in the context of a concrete antagonism” (Schmitt, 2007: 30). For this reason, “all political concepts, images, and terms have a polemical meaning” and “are incomprehensible if one does not know exactly who is to be affected, combated, refuted, or negated by such a term” (ibid.: 30-31). In other words, “it is only through close attention to *what actually happened* over the course of the crisis that we can make any sense of the contingent and ideologically charged categories” (Greer, 1993: 9). In what lends itself to a rather apt description of the situation created by the HBC’s surrender of Rupert’s Land to the Crown, Tully (1988: 13-14) observed that “political theories are about contemporaneous legitimation crises caused by shifting political relations.” In other words, the “primary agency of large-scale change [i.e. reception] in both thought and action is the unstable configuration of power relations that make up the practical context, and which the ideological controversy represents” (ibid.: 15).

An additional element of the second component involves reconstructing the motives of the actors. While Skinner does not explore this aspect himself, at least in his discourse on method, he nevertheless stipulates that “such non-causal explanations” are in no way “incompatible with the subsequent provision of further and arguably causal explanations of the same action. One such further stage might be to provide an explanation in terms of the agents motives” (Skinner, 1988c: 89). Skinner further specifies that what the illocutionary re-description explains “is not the occurrence of the act, but the character of the utterance. If we wish to explain the occurrence of the act, [...] we have no option but to go on to enquire into the agent's motives for performing it” (Skinner, 1988f: 266-7). Somewhat like Skinner’s contextualisation of texts in order to recover the author’s *intention*, situating the political actor in the precise political conjuncture that was his or hers reveals the particular horizon of meaning that allows for the interpretation of the *motives* that underlie the observable behaviour, acts, tactics and strategies, whether expressed in the form of deeds or words.

The third step looks at how ideologies are to be identified and their formation, criticism and change surveyed and explained. This is done by surveying minor texts of a period “to identify the constitutive and regulative conventions of the reigning ideologies and their inter-relations before they are employed as benchmarks to judge the conventional and unconventional aspects, and so the ideological moves, of the major texts” (ibid.: 12). It is

here that the specific object of my inquiry forces me to deviate somewhat from Skinner's approach in that it reverses the procedure of the first component. I am less concerned here with explaining the formation, criticism and change of republicanism than with simply identifying it. Rather than placing the writings of a 'classical' political thinker within the context of what Skinner considers to be 'minor texts', I will be placing 'minor texts' within the existing conventions surrounding republican ideology. This involves reconstructing the 'general framework' within which actual political discourse will be situated, that is one aspect of the "general social and intellectual matrix" (Skinner, 1998a: x). In other words, it requires a reconstruction of the key linguistic conventions of the particular political doctrine of republicanism that formed part of the ideological context. This will involve treating, for example, 'liberty' as what Skinner terms a *convention*. If Skinner's approach is nominalist, he does not maintain that signifiers can mean whatever we want them to. They are restricted by inter-subjective 'conventions' regarding their meaning. This particular aspect of the third component will be developed in more detail in the following section.

The fourth step looks at "the relation between political ideology and political action which explains the diffusion of certain ideologies and what effect this has on political behaviour" (ibid.: 8). In this regard, Skinner (1988c; 1988d) is not simply concerned with the history of political ideas, but with the relation between political thought and action. Skinner's application of a hermeneutic approach to interpret actions as well as texts is all the more justified by the authority of Friedrich Schleiermacher (1977: 315), who long ago specified "that hermeneutics must not simply be limited to literary works; [...] the solution of the problem, which is precisely why we're looking for a theory, is in no way linked to the fact that discourse is fixed for the eyes in writing, but everywhere where we perceive thoughts or successions of such by way of words."²⁴ If words are deeds, then deeds are also words and, when faced with interpreting the 'political thoughts' of a largely illiterate people such as the Métis in the nineteenth century, the most we can hope for is to infer their thoughts from "their differing responses" to "certain specific situations" (Trigger, 1975: 52). In essence, political ideology is seen as manipulating conventions in one of two ways. It can

²⁴ My translation: "[...] daß die Hermeneutik auch nicht lediglich auf schriftstellerische Produktionen zu beschränken ist; [...] die Auflösung der Aufgabe, für welche wir eben die Theorie suchen, keineswegs an dem für das Auge durch die Schrift fixierten Zustände der Rede hängt, sondern daß sie überall vorkommen wird, wo wir Gedanken oder Reihen von solchen durch Worte zu vernehmen haben."

either reinforce the *status quo* through the repetition of the standard use of a convention, and thereby delegitimise any action that strays from it. Or it can seek to open up a new range of beliefs in order to legitimize what was previously considered untoward political activities. The implications of manipulating conventions will be considered in more detail in section 1.6.1.

The fifth step looks at “the forms of political thought that are involved in disseminating and conventionalizing ideological changes” (ibid.: 8). Normally, this step would account for how an ideology becomes entrenched and hegemonic through its circulation and adaptation “in the stratagems of a wide range of similar struggles” (ibid.: 16), but my particular case-study is not about how liberalism became entrenched and hegemonic in Canada. This step will instead involve tracing the circulation and adaptation of republican ideas in the District of Assiniboia as a stratagem during various political struggles that culminated in the Resistance. As this involves demonstrating that the Métis were in fact employing republican conventions, this component involves surveying the conventions in the political discourse of the immediate context, that is, analysing documents with the objective of identifying the conventions used during the Resistance, then matching these with those identified in the third component in order to establish that the particular constellation of conventions is similar enough to the model of republicanism to warrant being labelled ‘republican discourse’. It is also concerned with showing that the Resistance shared structural similarities with other struggles where republican ideology was also mobilised.

1.5.1. Tracing Republican Fragments in Assiniboia

In order to analyse and identify fragments of republican discourse in Assiniboia before and during the Resistance, one must first have a clear idea of what republican conventions entailed. The challenge is, first, to construct a conceptual grid in order to identify exactly what conventions I will be looking for; second, to identify these same linguistic conventions in political discourse in Assiniboia before and during the Resistance; third, to thread these fragments together to reconstruct a constellation of conventions; and, fourth analyse the ways the conventions were being activated to justify untoward political action, notably the unilateral establishment of a provisional government.

There is much debate on what exactly the signifier ‘republicanism’ signifies. Since at least Gorgias, Western philosophy has realised that language is purely conventional, or what would later be called nominalist. Not only is the relation between words and natural phenomena purely conventional, but in the case of such human artifices as ‘the public thing’, there is no signified in a ‘reality’ that exists ‘out there’ in the world independently of the human mind, no discrete and complete unit of reality that exists outside of language, to which the signifier ‘*Res publica*’ naturally and necessarily corresponds. For such human inventions, it is more appropriate to apply a semantic theory of truth. This does not imply that signifiers can mean whatever we want them to. Meaning is of course restricted by intersubjective ‘conventions’ that have crystallised over several generations. The meaning of ‘republicanism’ is therefore to be found in these linguistic conventions that have developed around it over the centuries. This is why the third component requires a survey of the key linguistic conventions of a particular political doctrine within both the major and minor works on the subject.

As a nominalist, I can only but agree with Nelson (2004: 17-18) that, “one will search in vain for the ‘essence’ that underlies all these uses [of the word ‘republic’].” On the other hand, Nelson (ibid: 4) seems to believe that there are “essential, unifying characteristics” when it comes to “Greek and Roman political theory [which] were substantially different from one another.” But if searching for ‘republicanism-in-itself’ is a futile exercise, one wonders why it is any more valid to look for ‘Greek-republicanism-in-itself’ or ‘Roman republicanism-in-itself’. If there is no essence that underlies the word ‘republican’, it is nevertheless possible to construct an artificial ideal-type or model of republicanism. For Weber (1949: 90), an “ideal-type [...] is formed by the one-sided accentuation of one or more points of view and by the synthesis of a great many diffuse, discrete, more or less present and occasionally absent concrete individual phenomena which are arranged according to those one-sidedly emphasized viewpoints into a unified analytical construct.”²⁵ In this regard, it is possible to search for what Pocock (2003: viii) calls a ‘paradigmatic legacy’, that is a *conventional* or intersubjective identity and *conceptual* divisions of ‘reality’

²⁵ “Idealtypus [...] wird gewonnen durch einseitige Steigerung eines oder einiger Gesichtspunkte und durch Zusammenschluß einer Fülle von diffus und diskret, hier mehr, dort weniger, stellenweise gar nicht, vorhandenen Einzelerscheinungen, die sich jenen einseitig herausgehobenen Gesichtspunkten fügen, zu einem in sich einheitlichen Gedankenbilde.” (Weber, 1991: 73).

that have maintained a certain stability and permanence over time. In this spirit, like Brugger (1999: 17), I will attempt to construct an ideal-type of republicanism based on the conventions that underlie the various uses of ‘republicanism’ that would have been accessible to the inhabitants of Assiniboia in the late nineteenth century.

A convention, then, provides a reference point that allows us to measure to some extent the actor’s linguistic performance. In other words, Skinner’s approach is not much different than that of the Weberian use of models or ideal-types. The model of the market, for example, is an ideal-type, that is, how the market would function in ideal circumstances. A real world market will never be found to function like the model, but it is precisely this divergence between real economic phenomena and the model that gives us some bearing for understanding phenomenological reality. It is precisely in this way that I intend to measure to what extent what can be termed ‘republican thought’ was present in the District of Assiniboia during the Resistance. As the political actors may have had reasons not to use the word ‘republican’ or make overly explicit references to republican doctrine, it may be necessary to deduce a republican discourse by identifying conventions that are at least homologous to those used in other political contexts were explicitly identified with republicanism. This will first entail an inductive movement, working from recent works of the Cambridge School on republicanism in North America in order to construct a model of republicanism using conventions that would have been available to the population of Red River. Once a series of conventions is reconstructed, the next step is to identify a similar constellation of conventions in the ‘minor texts’ that reflect the political discourse of the Métis in the District of Assiniboia. The presence of these same conventions will allow us to induce the existence of a form of republican thought.

If such an ideal-type allows to measure, to some extent, the presence of standard tropes of republicanism in political discourse in Assiniboia during the Resistance, one must also be sensitive to local adaptations. Since the “Anglo-Atlantic equivalent of the ‘Machiavellian moment’ [...] had some positive complexities in terms of economics and psychology, not to be found in its Florentine original” (Pocock, 2003: 477), we should expect the same of the Machiavellian moment of the Métis. Like James Harrington, “who brought about a synthesis of civic humanist thought with English political and social awareness, and of Machiavelli’s theory of arms with a common law understanding of the importance of freehold property”

(Pocock, 2003: viii), the Métis and their leaders were not simply passive receptacles of existing republican theory, but adapted it to their particular situation and culture.

1.6. Method of Research

Skinner (1988d: 99) states that his “original aim was merely to analyse the nature of the conditions which are necessary and perhaps sufficient for an understanding of any one of these texts.” However, for Raymond Boudon what is necessary and sufficient to understand reality is not a question that can be decided *a priori*. In the first place, as he notes (1976: 155), there is no “réalité sociale, indépendamment de la connaissance que nous avons. Il n’y a pas de connaissance de la réalité sociale sans instruments d’observation.” For this reason, “contrairement à l’idée répandue, l’activité scientifique n’a pas pour finalité d’expliquer le réel – qui, *en tant que tel*, est inconnaissable ou du moins n’est connaissable que sur le mode métaphysique – mais de répondre à des *questions* sur le réel” (1991: 201). In other words, just as one cannot determine *a priori* which variables will be considered as being dependent or independent, no particular approach can *a priori* be considered *necessary* for understanding *any* text. Both will notably depend on the general and specific questions that are posed.

Neither can any particular approach ever be *sufficient* to say everything there is to say about *any* text. As Boudon (1991: 238) puts it, “le réel déborde toujours le rationnel.” Human knowledge of reality and our crude tools for understanding it will always pale in comparison to the totality of reality. In no way do I claim here to have the final word on the interpretation of the Resistance of the Métis in general or on the interpretation of specific texts. All I claim to do is to bring out but one of the myriad of possible perspectives that one can have on the Resistance. Insofar as it enters into conflict with, or even contradicts, other perspectives, it does not necessarily invalidate them. By retroactively imposing the assumption that the discourse of political actors was perfectly coherent, when in fact the discourse of such individuals or groups were not always entirely logical, one runs not only the risk of anachronism, but of sliding into an instrumental and ideological recuperation of such discourses for contemporary purposes. My ‘horizon of expectation’ is of course limited to that of republican conventions.

1.6.1. Verification

It is an error for social sciences to attempt to follow the nomothetical model of the ‘pure’ or ‘hard’ sciences with its method of falsification. No single model can claim the status of a general or universal ‘theory’ with the capacity to causally explain (*ursächlich erklären*) every possible social phenomenon imaginable. While Plato was the first to conceive of the political as a ‘science’, Hobbes’ attempt to establish political analysis as a political *science*, partly based on the atomist theories of Leucippus and Democritus, meant eliminating agency. This necessarily implies the methodological postulate that human beings are nothing more than glorified billiard balls (i.e. completely determined by external forces or, to put it otherwise, without a will of their own). On the other hand, agency necessarily introduces the less foreseeable element of understanding by interpretation (*deuten verstehen*) the meaning that events, including speech acts, have for actors and reduces predictability to that of probability or stochastics (from the Greek στόχος, meaning ‘aim’ or ‘guess’). The best we can hope for in the social sciences are middle-range ‘theories’ that have a certain capacity to explain and understand a certain class of phenomena, but not all phenomena everywhere at all times. In this regard, which theory best explains the facts may simply depend on the specific research questions one poses.

The type of conceptual relations that will be operationalised here are not those of causality, contiguity or resemblance, but of meaning with some emphasis on structural homology. This involves the relations between certain concepts, between historical facts and between concepts and historical facts. In order to verify the precise meaning of an enunciation, it is necessary to place the locutionary act in an appropriate context, which implies not only an intra-textual and inter-textual approach, but socially situating the actors in both the ideological and practical political context of their day. For example, by determining what, at the time, was signified by the signifier ‘rights’, it is possible to situate the political actors’ linguistic performance relative to the existing conventions. In other words, it becomes possible to determine to what extent they were contesting or reinforcing conventions in order to open up or restrict the horizon of legitimate political action. In order to do so, in addition to Tully’s five steps, a sixth step involves putting the previous aspects together, that is, surveying “the conventions surrounding the performance of the given type of social action in the given social situation” (Skinner, 1988c: 94). For this reason, the

methodological injunction that Skinner suggests is to begin “by trying to decode the agent’s intentions by aligning his given social action with a more general awareness of the conventional standards which are generally found to apply to such types of social action within a given situation” (ibid.).

This methodological injunction means *not* focusing, at least at this stage, “on the individual action to be explained [...] by trying to recover the agent's motives by studying the context of social rules” (Skinner, 1988c: 94). Here, Skinner draws an important distinction between intention and motives on the one hand and *motives* and *principles* on the other. These can be the same, such as when Flanagan (1979: 132) states that Riel’s “political actions were always influenced by deeply held convictions” and it is thus “appropriate to discuss his ‘political thought’.” However, it is of course a truism in politics that an actor's professed principles do not necessarily express his true motives, and that he may never even actually believe in any of the principles he professes. In this case, these can nevertheless end up affecting his behaviour. For example, if one adheres to Protestantism simply because it allows one to pursue profit, one nevertheless must constantly give others the impression that one is a sincere believer. In terms of intentions and motives, Skinner draws a distinction between *what* the author was doing and *why* he was doing it and does not try to discover the *motives* behind the intention. The *intention* of an author or actor in saying something is often to obtain certain *perlocutionary effects*, that is, “effects such as inciting or persuading his hearers or readers to adopt a particular point of view” (Skinner, 1988d: 111).

To begin with, one “part of recovering the historical meaning [...] is to understand its locutionary meaning: the sense and reference of the terms included” (Tully, 1988: 9). A locutionary act is simply the act *of* saying something. The challenge of interpretation is precisely to determine what exactly has been said, that is, the intention behind the locutionary act. The intention of the author, as Skinner means it, is derived from the Austinian notion of an *act of illocution* or *illocutionary act*. For Skinner (1988b: 74), “an understanding of the illocutionary act being performed by an agent in issuing a given utterance will be equivalent to an understanding of that agent's primary *intentions* in issuing a particular utterance”. The intention points to “the capacity of agents to exploit [illocutionary forces] in communication” (Skinner, 1988f: 265-6), that is, to activate or manipulate existing conventions.

If the illocutionary act reflects the author's will, the “*illocutionary force* carried by our utterances are mainly determined by their meaning and context” (Skinner, 1988f: 266). In other words, an utterance may contain an illocutionary force that is basically an unintended consequence of the speech act. This is why the *locutionary* meaning of a text can have an illocutionary force that exists independently of, and most often exceeds, the author's *illocutionary* act or intention. For example, if I inform a colleague that I have been invited to read a paper in Germany, she may reply, “I didn't know you spoke German” or “When are you flying out?” If my intention was neither to inform my colleague of my linguistic capacities nor of my means of transportation, these can nevertheless both be ‘read into’ the illocutionary force of my locutionary act, that is, its meaning in context. In other words, the illocutionary force could be said to be the action's *overt* meaning, that is, what an action can be taken to mean by an observer, whereas the illocutionary act is the actor's *covert* meaning, that is, what the actor wanted his action to mean. The illocutionary act or intention, then, is what an author “may have been intending to do *in* writing what he wrote” (Skinner, 1988b: 75). The art of interpretation consists precisely in determining, among the various meanings carried by the illocutionary force, the illocutionary intention of the author.

Perlocution refers to the *effects* of the act of saying something. The *perlocutionary act* or *intention* refers to the effect or response that the author intended to achieve (Skinner, 1988b: 74), that is what the author may have been hoping to bring something about as a consequence of saying something. The *perlocutionary force* is what an author “may bring about *by* saying something” (Skinner, 1988f: 260). Like the illocutionary force, it may exceed the perlocutionary act or intention of the author. This perlocutionary force may or may not bring about the desired response that is expressed in the perlocutionary intention. The author may not effectively obtain the desired effect or response, but his work may have unintended consequences. For this reason, the *perlocutionary effect* is what the perlocutionary force effectively brings about, regardless of whether it was the original intention of the author's perlocutionary act.

In order to verify the research propositions concerning republican conventions, I will first analyse various secondary historical sources in order to identify the linguistic conventions surrounding ‘republicanism’. The criteria for selecting specific documents will notably be their proximity, both in temporal and spatial terms. In other words, I will attempt to identify

conventions to which the Métis could have plausibly had access, most notably the republican conventions prevalent in both Lower and Upper Canada and the United States. I will then try to compare these conventions to those used in the political discourse in the District of Assiniboia in the thirty-five year period from about 1835 to 1870, or the period from the establishment of a regime of governance in Red River by the HBC to the Resistance in 1869-70. Here, the data collection technique will be that of an inquiry of both secondary sources and primary sources. I will attempt to inductively construct a certain ‘republicanism’ from the particular constellation of conventions, such as they can be gleaned from various historical documents. This will involve scrutinising both local sources, such as the newspapers the *Nor’-Wester* and the *New Nation*, minutes of the Council of Assiniboia, case law of the General Quarterly Court, petitions, the private and public correspondence, and diaries of local settlers, as well as external sources, such as parliamentary debates, parliamentary reports, statutes, case law, official and private correspondence, in order to circumscribe the conventions surrounding the notion of ‘republicanism’, most notably in the period shortly before and during the Resistance.

The technique of data processing basically involves a content and discourse analysis. The first step will be mostly looking at official documents in order to determine the conventions around the term ‘republicanism’. Once these conventions have been identified, it is possible to identify attempted manipulations of these linguistic conventions, which seek either to preserve the *status quo* or to open up the horizon of potential political action (Skinner, 1988d: 113-116). More precisely, what must be identified is not only which part of the convention is being repudiated, but also which aspects are being reinforced. On this level, for Skinner, there is no distinction between factual or descriptive and evaluative statements. In other words, when we claim to be merely describing, we are often in fact *judging*. This judgement or evaluation can be positive or negative, that is, it can commend or condemn (Skinner, 1988d: 111). While Skinner also allows for a neutral ‘evaluation’, it seems to me that such a statement, in itself, hardly differs from a strictly descriptive one. What is not neutral is the decision of the actor to deliberately portray as being neutral a convention that normally implies a negative or positive evaluation.

For Skinner, there are two methods or strategies for “actually manipulating an existing normative vocabulary in such a way as to legitimate [...] new or untoward courses of action”

(1988d: 113). The first strategy involves two main tactics, the first of which attempts to maintain the signified by changing the signifier. In this case, in an endeavour to legitimise practices currently unapproved of, the political actor “coins a new term” in an attempt to present old arguments in a new light. The second tactic aims at maintaining the same signifier, but changing what it signifies. For example, Riel and others claimed rights under the pretext of being ‘British subjects’, but some of these demands were in fact republican in nature. In both cases, the actors are “varying the range of speech-acts which are standardly performed with an existing set of unfavourable evaluative-descriptive terms” (ibid.: 114).

To do so, there are two possibilities that differ only to the degree in which one is trying to manipulate the convention along the evaluative range. The first and more prudent is to push a negative evaluation toward a neutral one, or from a neutral to a positive one. The second and more ambitious is to completely reverse the evaluation by transforming outright disapproval to enthusiastic appropriation. This second method or strategy “represents the most widespread and important form of ideological argument” (ibid.: 116). It consists of “manipulating the criteria for the application of an existing set of favourable evaluative-descriptive terms. The ideologist’s aim in this case is to insist [...] that, in spite of any contrary appearances, a number of favourable evaluative-descriptive terms can in fact be applied as apt descriptions of his own apparently untoward social actions” (ibid.: 115). In this way, Riel was able to convince the Half-Breeds to join the Métis provisional Government, although they initially saw it as rebellion against the Crown. For Skinner,

The attempt to make this move is, of course, ideological in the most pejorative sense, since it depends on the performance of a linguistic sleight-of-hand. The aim is to argue that a favourable evaluative-descriptive term is being applied in the ordinary way, while trying at the same time to drop some of the criteria for applying it, thereby extending the range of the actions which it can properly be used to describe and commend (ibid.: 115).

It is, of course, notoriously difficult to provide any reliability to interpretations of meaning, in the usual scientific sense of a concordance of observation made with the same instruments on the same subject but by different observers. In this regard, the degree of reliability in the social sciences has more in common perhaps with the standard of proof in civil law, which is content with the ‘balance of probabilities’. In the case of the natural sciences, the degree of reliability is similar to that of penal law, with its demand that the evidence of the guilt of the accused be ‘beyond a reasonable doubt’. For this reason, the

level of reliability of my thesis merely seeks to be convincing and persuasive and largely relies on nothing more than rigorous logical argumentation.

In terms of validity, social sciences are also more similar to jurisprudence and differ from the natural sciences. If the validity of the latter is measured in terms of *falsification* and guaranteed by the inter-subjective evaluation of peers in the scientific community *prior* to publication, the validity of the former is measured in terms of *verification* and subjected to the dialectical method *after* publication. As in law or scholastics, the dialectical method involves an adversarial approach whereby research results are confronted with the critique of colleagues who are specialists in the same subject area. The most we can hope for in terms of empirical validity is exhaustiveness of documentation and facts presented and, in terms of logical validity, a precise definition of concepts, sound reasoning and the intra and inter-textual interpretation of these documents and facts.

1.6.2. Limits of Methodology

Skinner's approach is what can be termed a middle-range theory. As such, it denies the possibility of a theory that claims universal validity. One of the inherent problems with doing away with the nomological or nomothetical approach is that theories no longer lend themselves to the Popperian criterion of falsification. It is rather a question of verifying its capacity to better account for the available facts than other theories, not only in a particular instance, but when applied to a certain class of social phenomena. In addition, as no theory can grasp a phenomenon in its totality, and, while it may explain some aspects better than another theory, it necessarily distorts reality and reduces our capacity to understand other aspects. For this reason, my thesis in no way claims to somehow grasp the totality of all aspects of Métis reality, nor even a segment thereof.

In this regard, the scope of my study is largely limited to the written texts that were produced in the Red River Settlement in the period from 1835 to 1870. Ideally, a full analysis of Métis political thought would require an analysis of Anishinaabeg and Cree political structures and ideas as potential sources. However, aside from problems of lack of documentation, the hurdle of linguistic competence prevents me from exploring this potential source of the political thought of the Métis. Another related problem is that of the exhaustiveness of documentation consulted and the 'facts' presented. There is always the

risk of not consulting certain documents, or neglecting certain facts, that would otherwise invalidate the research propositions. Furthermore, my thesis will necessarily be limited by the questions I have sought to answer and will only reveal certain aspects of the particular phenomenon I will study.

In addition, Skinner's approach remains largely descriptive and does not in itself allow one to move on to Weber's *ursächlich erklären*, or causal explanation of social structures, and *deuten verstehen*, or understanding the subjective perceptions and motives of political actors through interpretation and therefore fails to account for many aspects of the political discourse of the Métis during the Resistance. A more elaborate approach would combine the approaches of historical institutionalism and social movements in order to yield a more in depth analysis of the influence of colonial institutional structures on the political behaviour and discourse of the Métis, how it structured and limited both, as well as the ability of the Métis to organise themselves as a collective political actor and manoeuvre within such structural and cognitive limits. An example of this is the language of legal text, which closes off certain avenues while directing collective action toward the opportunities they left open. A social movement analysis would allow us to understand *why* the Métis were receptive of republican ideas in the first place and why the Métis effectively mobilised republican conventions rather than other available political vocabularies. Did the structure of the Métis worldview provide certain ideological homologies with republican conventions that made them particularly receptive to republican discourse? In order to account for this, it would be necessary to account for the capacity of the Métis to form a collective political actor. This would involve an analysis of their organisational capacity due to the bison hunt formation as well as their cognitive and emotional predisposition due to a shared sense of linguistic, religious and indigenous nationalism. Despite these shortfalls, I believe that my thesis contributes, however modestly, to further the understanding of the Métis Resistance and as such is a contribution to the advancement of the social sciences.

1.7. General and Specific Objectives

The general objective of this thesis is to enter into the contemporary debate on republicanism in order to show that the republican paradigm is much larger than what is often allowed for and that many of the conventions associated with liberalism are in fact republican in origin.

With such a model of republicanism in place, the specific objective of this thesis is to test the second research question concerning the circulation of republican conventions in Assiniboia in the period from 1835 to 1869. By showing that they were available in 1869 to be effectively mobilised to develop a political discourse as a form of resistance to the prevailing hegemonic discourse in order to justify a certain degree of autonomy and self-government, if not self-determination allows me to move on to an analysis of the political discourse of the Métis Resistance. This, however, raises the questions of the originality and the academic and social relevance of my research propositions.

1.7.1. Originality

As mentioned earlier, no one has yet bothered to consider the possibility that republican conventions were present in the political discourse of the Métis during the nineteenth century, and most notably during the Resistance of 1869-1870. The originality of my thesis is situated both on a theoretical level and in terms of the object of study. In terms of the former, my project seeks to contribute to the approach of the Cambridge School by building on Skinner's method. However, while Skinner's object of study was the formation of the dominant ideology, most specifically of Machiavelli and Hobbes, I seek to enlarge the range of phenomena to which his method can be applied. That is, his method can be applied not only to better understand political action *per se*, but also what he calls 'minor texts'. That being said, if my thesis can be read as a contribution to the studies of republican thought, with the Métis relegated to a secondary role as a case study, this is more an illocutionary effect of the text than the illocutionary intention of the author. The central focus of my study is intended to be the political history of the Métis, of which republican discourse is one particular aspect. As such, it is an original contribution to discourse analysis in the field of political science, and to the history of Canadian political ideas in particular, and is not intended to simply be a history of the Métis Resistance.²⁶

From the point of view of the *history* of political ideas, my thesis does not break new ground in the sense of presenting some hitherto unknown archival material, but rather in regards to the particular juxtaposition of fragmented information, events and discourses that bring out the particular political vocabularies available in the Settlement on the eve of the

²⁶ One of the most concise and well-documented histories of the Resistance alone takes up 140 pages (W.L. Morton, 1969).

Resistance. The original contribution is in the interpretation and the analysis of the political discourse of the Métis through a theoretical framework that emphasises particular conventions that have been largely ignored. In any case, I am not so much interested in historical evidence that has been ‘lost’ or ‘forgotten’ as in placing – or re-placing – their ‘meaning in context’ and tracing the genealogy of political discourses in Assiniboia. As such, it seeks to recover the contribution of the Métis to Canadian political thought.

1.7.2. Academic and Social Relevance

While Robert Vipond (1991: 9-10) applies anthropologist Clifford Geertz’s cultural history approach and does not refer to the Cambridge School, he nevertheless refers to the “genealogical value” (ibid.: 3) of his “study of legal and political ideology of the provincial rights movement” (ibid.: 2) and applies a similar method when trying to “uncover the deeper structure of the autonomists’ worldview” (ibid.: 10). In much the same way, Paul Romney (1999: 17) makes no explicit reference to the Cambridge School either, but he also undertakes what can be termed a genealogical study of “how Canadians forget a crucial aspect of their past.”

Skinner (2002c: viii), of course, has expressed that his “highest hope is that, by excavating the history of these rival theories, I may be able to contribute something more than purely historical interest to these current debates.” In much the same way, both Vipond and Romney also aim at what Skinner terms a “history of the present.” While Vipond (1991) does not use the concept of language conventions, he cites Alan Cairns to the effect that “the current constitutional debate in Canada is, in its own way, a struggle for the control of definition of key cultural symbols which involves ‘the potential restructuring of the psyche of Canadians’” (11). In light of this, Vipond’s study is also “intended to challenge the dominant mode of thinking about the core principles of federalism and liberalism here and now” (ibid.: 3). He aims to throw into question “the analytical usefulness of the dichotomy between liberty and community” because it “misreads the past, distorts the choices available to us in the present and constricts our view of the future” (ibid.: 10). In a similar way, Romney (1999: 17) argues that the “very power of myth”, that is, a true story that doesn’t tell the whole truth, “closed off avenues of inquiry that might call it into question”. He also expresses the hope that his “book may help to form a basis for dialogue between French and

English Canadians” (ibid.: 3) and, more generally, “that history can help us to understand it as it happens and thereby respond more effectually to the exigencies of the present day” (ibid.: 18). In much the same way, I believe that by paying careful attention to the conventions of the political reasoning of the Métis, my thesis will not only yield significant new interpretations of the motivations of the Métis Resistance, but will also unearth ‘lost meanings’ in order to rediscover a lost horizon of possibilities and thereby open up the terms of the present debate on Aboriginal title and self-government.

2. Democratic Rhetorical Republicanism

The third component of Skinner's approach looks at how ideologies are to be identified. In order to compare the 'minor texts' of the political discourse of the Métis during the Resistance to classical republican texts, this step requires a reconstruction of the key linguistic conventions of republicanism such as it would have historically existed. This involves reconstructing the 'general framework' within which the particular political discourse of the Métis Resistance was historically situated, most notably the classical texts and their reinterpretation in England and North America. The construction of a conceptual grid involves an inductive movement, working from the secondary literature on republicanism, especially in North America, in order to identify the specific conventions of republican discourse and clarify the content of such conventions as well as their relation to each other. As we shall see in chapter four, the most probable sources of the particular republicanism that would have been accessible to the inhabitants of Assiniboia in the latter nineteenth century were somewhat specific to the American continent.

An initial indication of the conventions can immediately be gleaned from recent works on republicanism. According to Pocock (2003: viii), the 'paradigmatic legacy' of Florentine political thought included "concepts of balanced government, dynamic *virtù*, and the role of arms and property shaping the civic personality." For his part, David E. Smith (1999: 38) relies on Sellers' list (1994: 6) to identify the "lineaments of the republican concept," which includes "the rule of law, under a mixed and balanced government, comprising a sovereign people, a deliberative senate and an elected magistracy." Such, in any case, was the

conception of republicanism “that Americans held of the Roman republic” at the “time of their own revolution” (Smith, 1999: 249, note 2). For his part, Brugger (1999: 20-21) considers three distinct ideal-types of republicanism – Early Modern, Enlightenment, and American. While all three share four aspects of republican values – popular sovereignty, a systemic corruptibility that implies a particular conception of history, civic virtues and a qualitative view of liberty as non-domination – they differ according to their definition of them.

In the first section of this chapter, I will first discuss the primary concern of republicanism, that of liberty. The analytical debate surrounding the notions of positive and negative liberty has unfortunately obscured the historical content of republicanism. I will argue that democratic rhetorical republicanism involves both positive liberty in the form of collective self-government and negative liberty in terms of the substantive liberties at stake. Furthermore, what some contemporary advocates of republicanism have termed ‘negative liberty as non-domination’ in fact involves the protection or guarantee of negative liberty. In this regard, classical texts explicitly recognised such ‘liberty’ as ‘security’. As the first institutional guarantee of liberty was juridical, I will begin with the overarching principle of the rule of law. The second guarantee was political and took on the form of a mixed constitution. The latter can include an organic balance between a monarchical principle, an aristocratic principle and a popular principle or a mechanical balance between the executive, legislative and judicial functions of the State, or a combination of the two. The balance of a mixed regime in turn implies different levels of active citizenship with corresponding duties. Whether as magistrates with a higher duty, or as ordinary citizens, what is required in order to stave off the constant threat of corruption is virtue of the citizenry. The development and maintenance of virtue in turn depends on public participation, whether by taking an active part in the executive (magistracy), legislative (elected representative) or judiciary branch (jury duty) and participation in the local militia, or more passively by simply exercising one’s right to vote. In addition, real property is also seen as a means of avoiding corruption of the citizens by assuring their economic independence. As some of these conventions, such as the rule of law or the mixed constitution, are often associated with liberalism, I will attempt to briefly demonstrate their origin in classical republican thought.

2.1. Republican Liberty

The issue of liberty immediately raises the question of what exactly is meant by liberty in republican discourse. As Arendt (2000: 438) remarked, to “raise the question, what is freedom? seems to be a hopeless enterprise.” While I certainly do not propose to answer that question here, it is difficult to address the issue of republican liberty without positioning oneself relative to Isaiah Berlin’s account of negative and positive liberty. The problem with doing so in my case is that Berlin was primarily concerned with an *analytical* debate whereas my thesis is concerned with a *historical* one. In this regard, Spitz (1995) is one of the few who makes this distinction explicit, although Skinner (1998c: 107-120) indirectly touches on the issue. The question that concerns my thesis is not Berlin’s analytical conception of liberty and the ensuing debate, but rather the historical existence and role of such concepts. From an historical point of view, what matters is what republicans meant when they used such terms as ‘liberty’, not whether such notions were logically coherent or consequential.

If Berlin’s definitions of negative and positive freedom do not directly concern the historical content of conventions surrounding republicanism, it could nevertheless be said that the contemporary analytical debate around Berlin’s essay does. At times, the strategic positioning in this debate can itself involve manipulating the content of different conventions and passing them off as ‘historical’ or emphasising certain conventions while relegating others to the background. For example, in responding to Berlin, the advocates of republicanism have arguably obscured the historical role of positive liberty in the republican paradigm due to its strict association with the communitarian orientation of civic humanism. The current hegemony of liberal ideology has arguably rendered such political options unsavoury and hardened ideological boundaries to the point where they are difficult to manipulate. It is therefore necessary to ‘retrieve’ this ‘lost’ convention of positive liberty from a strictly historical perspective in order to construct an accurate model of neo-roman republicanism, without having a political agenda that seeks to veil how unsavoury it may be for a contemporary liberal or utilitarian palate.

2.1.1. Of Positive Liberty

Skinner (1990b: 300) has argued that the writers of the Renaissance republican tradition “never appeal to a ‘positive’ view of social freedom.” For his part, Pettit (1997: 27) could not have been more explicit on this point when he asserted, “the republican conception of liberty is not a positive one.” This supports Viroli’s (2002: 47) claim that Skinner and Pettit both emphasize that “the republican or neo-Roman conception of political freedom is not a positive conception of liberty.” Spitz (2001: 8-13) repeatedly associates himself with Pettit’s negative liberty as non-domination rather than ‘positive liberty’. To be sure, Viroli (2002: 40, 43) himself is somewhat more mitigated in his reaction, claiming “the republican conception of liberty is neither the negative nor the positive liberty described by Berlin and Constant,” but is rather “a complex theory of political liberty that incorporates both the liberal and democratic requirement.”²⁷

These claims strike me as rather odd. C.B. Macpherson (1973: 109) observed early on that Berlin’s concept of ‘positive liberty’ was based on “the democratic concept of liberty as a share in the controlling authority.” Whatever disagreements he may have with Berlin, Taylor (1997: 214) recognised that positive doctrines “want to identify freedom with collective self-government,” which is “essentially grounded on [...] the actual exercise of directing control over one’s life.” In this regard, the whole thrust of Skinner’s (1990b: 303) argument is that “a self-governing republic is the only type of regime” that is capable of “guaranteeing its citizens their individual liberty.” Similarly, no sooner had Pettit (1997: 27) claimed that the “republican conception of liberty is not a positive one,” which he clearly described as the “liberty of democratic participation,” than he asserted the “republican tradition places a recurrent, if not unfailing, emphasis on the importance of democratic participation.” It would seem that discursive republicanism necessarily implies positive liberty in the form of democratic self-government. In this, Michelman (1986) seems to be correct in his assumption that “republican self-determination, from which all other republican values flow, in its ‘deep’ early modern version, demanded a positive view of liberty” (qtd. in Brugger, 1999: 5).

²⁷ In grappling with the issue of collective ‘search for status’, Berlin (1997: 231) himself called it a “hybrid form of liberty.”

What is going on here is that contemporary advocates of republicanism, rather than distinguishing among the different types of positive liberty, tend to simply disassociate themselves from it altogether and thereby obscure a historically important convention of republican discourse. They have reduced Berlin's definition of positive liberty to that of individual self-direction in the form of self-mastery, which itself can involve self-abnegation or self-realisation. It is notably when the latter can take on a heteronomous form – when others 'force us to be free' – that positive liberty can become particularly pernicious. However, as Macpherson (1973: 108) has pointed out, Berlin did not in fact provide a single definition of positive liberty. Macpherson (ibid.: 108-109) has identified three types of positive liberty: 1) individual self-direction; 2) self-mastery; and 3) democratic self-government. Berlin certainly insisted more on positive liberty as a form of *individual* self-mastery and less so as a *collective* right to self-government, and for this reason Macpherson rightly saw the central problem about positive liberty as being the relation between individual self-direction and self-mastery. The confusion stems from the fact that "when drawing the contrast between negative liberty and positive liberty as a whole [...] Berlin's main division of liberty into 'negative' and positive' partly depends on his using *one* of the definitions of positive liberty" (ibid.: 109), namely the democratic concept of liberty as a share in the controlling authority.

2.1.2. Of Negative Liberty as Non-Interference

For Berlin (1998: 194), negative liberty is a question of 'freedom from', that is, "the area within which a man can act unobstructed by others." The question here is whether this type of liberty has historically been restricted to liberal discourse, or whether it is initially to be found in republican discourse. The controversy stems from the fact that Quentin Skinner (1990b; 1998c), rather than completely relegating negative liberty to liberalism, has argued that republicanism has indeed historically contained notions of negative liberty both as non-interference and as non-domination. Spitz (1995: 167-177; 2001: 17-18) and Viroli (2002: 47) have both criticised Skinner for accepting that Berlin's definition of negative liberty formed part of republican discourse. Viroli in particular has maintained that, "classical republican writers have never claimed that true political liberty consists of the absence of interference" (ibid.).

Contrary to what Spitz and Viroli maintain, there is ample evidence that negative liberty as non-interference was a commonplace convention of democratic discourse in ancient Greek and is therefore not simply a product of Hobbes, modernity or liberalism. When Plato (1935b: 285) spoke of the “manner of life” of citizens of a democratic constitution, he asked rhetorically, “Are they not free [ἐλεύθεροι]? And is not the city chock-full of liberty [ἐλευθερίας] and freedom of speech [παρρησίας]? And has not every man licence [ἐξουσία] to do as he likes?” For Plato (ibid.: 285-287), “where there is such licence [ἐξουσία], it is obvious that everyone would arrange a plan for leading his own life in the way that pleases him” and that, consequently, “all sorts and conditions of men, then, would arise in this polity more than in any other.”²⁸ In other words, Plato was critical of Athenian democracy precisely because it did not prescribe one form of life.

Similarly, for Aristotle (1932: 489), “a fundamental principle of the democratic form of constitution is liberty,” for it is “only under this constitution that men participate in liberty.”²⁹ That this implies political liberty in the form of self-government is evident when Aristotle (ibid.) underscores that “one factor of liberty is to govern and be governed in turn.” A second mark of liberty, however, “is for a man to live as he likes; for they say that this is the function of liberty, inasmuch as to live not as one likes is the life of a slave” (ibid.: 491). Aristotle is evidently talking about liberty in the private sphere, and therefore of negative liberty as non-interference. While Aristotle (ibid.: 483) contested Plato’s assertion in the *Republic* that the only reason democracies fall is “because of [individuals] being allowed to do whatever they like; the cause of which [Plato] states to be excessive liberty [ἄγαν ἐλευθερίαν],” he nevertheless agreed that in democracies “everybody lives as he likes” and spoke of ‘liberty’ (ἐλευθερία) as “doing just what one likes” (1932: 437). When insisting on the importance of audits, Aristotle (ibid.: 501) also used the same term as Plato, ἐξουσία, in the context of the danger of having the ‘right’ – in terms of power, permission or liberty –

²⁸ Paul Shorey translates ἐξουσία as ‘licence’, but it would seem to mean in this context “right, power, permission, liberty” (Morwood and Taylor, 2002: 120). Benjamin Jowett translates this passage as follows: “are they not free; and is this not the city full of freedom and frankness – a man may say and do what he likes? [...] And where freedom is, the individual is clearly able to order for himself his own life as he pleases?” (Plato, 2000: 216).

²⁹ Jeffrey Henderson’s translation of μετέχοντας ἐλευθερίας – ‘to participate in liberty’ – captures well the sense of political liberty implied here. But it should be noted that μετέχω can mean: “have a share of, partake (of), enjoy with others” (Morwood and Taylor, 2002: 211).

“to do whatever one likes,”³⁰ in the sense of being “able to do everything exactly as seems good to one.”

For his part, Pericles praised “the relative openness of Athenian society” (Ober, 2005: 100). In the Funeral Oration, Pericles claimed that “not only in our public life are we liberal (ἐλευθέως), but also as regards our freedom from suspicion of one another in the pursuits of every-day life; for we do not feel resentment at our neighbour if he does as he likes, nor yet do we put on sour looks which, though harmless, are painful to behold” (Thucydides, 1928: 323-325).³¹ Certainly, liberty as non-domination was present in classical Greek thought. For example, Xenophon (1968: 479) believed that “the people do not want a good government under which they themselves are slaves; they want to be free and to rule.” But this implies positive liberty more than negative liberty. Given what Plato, Aristotle and Pericles have to say about freedom in Athens, the very reason people do not wish to live under another’s domination, that is, to be subject to the arbitrary will of another, is precisely to live according to their own will. Where negative liberty as non-interference may slide toward licence is when people wish to live according to their own will to the point of refusing to obey the law, which is counter-productive to the extent that it is the law itself that guarantees their liberty in the first place.

If traces of negative liberty as non-interference in Greek sources are not enough, Skinner (1998c: 5, 6 and 10) has also shown that the intellectual origins of both ‘liberty as non-interference’ and ‘liberty as non-domination’ can be traced back to Roman legal theory. Pettit (1997: 27) agrees that the alleged “evil of interference was there already in the originating, Roman conception of *libertas*” and traces it right up to the Usonian Revolution. Strangely enough, despite his criticism of Skinner, Spitz (1995: 185) asserted that republicanism and liberalism agree that liberty “est avant tout une valeur qui doit être dite en termes négatifs: elle se caractérise par la jouissance d’une aire d’action dans laquelle chacun est maître de développer ses propres actions sans que les autres y interfèrent, et c’est cette absence d’interférences d’autrui – individu ou État – qui définit la liberté.”

³⁰ Literally ‘to act according to one’s will’ (ἐθέλη).

³¹ Ober (2005: 100) translates this as: “Our public life is conducted in a free way, and in our private intercourse we are not suspicious of one another, nor angry with our neighbor if he does what he likes; we do not put on sour looks at him which, though harmless, are not pleasant.”

Pocock has criticised Skinner's emphasis on Roman sources from another angle. For Pocock (2003: 561-2), Skinner's 'Ciceronian' concept of citizenship tends "toward the reconstruction of the republic as a community of citizens regulated by law and justice, rather than one of citizens whose fiercely competitive (and expansive) virtue may or may not regulate itself by establishing a discipline of equality (an equality of rule, it should be noted, rather than an equality of rights)." As Arendt (2006: 21) keenly observed, isonomy (ἰσονομία), that is equality before the law, "guaranteed ἰσότης, equality, but not because all men were born or created equal, but, on the contrary, because men were by nature (φύσει) not equal, and needed an artificial institution, the polis, which by virtue of its νόμος would make them equal." In other words, equality before the law (ἰσονομία) is a necessary precondition of an equality of rule (ἰσοκρατία), and the notion of equality of rights was no less unfamiliar to Athenian citizens than that of the equality of rule. Moreover, if Pocock's position has the advantage of emphasising to what degree civil rights were evidently important in the legal and political culture of the Roman Republic, it reduces Roman jurisprudence to liberalism, or at least to a sort of proto-liberalism, which amounts to claiming that the mother of all republics was somehow *unrepublican*.³² It is perhaps better to follow Richard Tuck's example which opposes 'Ciceronian' concept of citizenship with that a 'Tacitist' one (Pocock, 2003: 562), or what is perhaps what could be respectively termed 'republican' and 'imperial' notions of Roman citizenship.

In any case, Skinner (1998c: 82) has shown that seventeenth and eighteenth century English "neo-roman writers fully accept that the extent of your freedom as a citizen should be measured by the extent to which you are or are not constrained from acting at will in pursuit of your chosen ends." When it comes to the substantive negative liberties at issue, they claimed "unconstrained enjoyment of a number of specific civil rights," which included freedom of speech, freedom of movement, freedom of contract and "an equal right to the lawful enjoyment of their lives, liberties and estates" (Skinner, 1998c: 18, 20). Further on, Skinner (*ibid.*: 19) showed that seventeenth century writers maintained that "these primitive liberties must be recognised as a God-given birthright, and hence as a set of natural rights

³² Of course, what Pocock is defending is 'civic humanism' and his claim that, in "Greek terms, the ideal of virtue was more Spartan than Athenian" (2003: 558), regardless of how true this is, reveals a certain bias. This seems strange when one considers that Pocock claims it was Aristotle's *Politics* that served as a model of civic humanism during the Italian Renaissance and that Aristotle was quite critical of Sparta in his *Politics*.

which, in Milton's phrase, it becomes 'one main end' of government to protect and uphold." As Skinner (2008: viii, note 5) put it, such a 'list of rights' in no way differs from those that we commonly associate with liberalism when he recognised that "the theory was also espoused by a number of political writers – for example John Locke – who would have been shocked to hear themselves described as republican in their political allegiances." Furthermore, it is an undeniable historical fact that political liberty was defined in Usonian political discourse before and during the Revolution as "a natural power of doing or not doing whatever we have in mind" (Bailyn, 1992: 77). It would seem, then, that the history of ideas is on Skinner's side, and that negative liberty as non-interference did form part of the intellectual arsenal of republican discourse in seventeenth and eighteenth century in both Great Britain and the United States. Its presence in political discourse is therefore in itself no more an indication of liberalism than of republicanism.

2.1.3. Of Negative Liberty as Non-Domination

If there are disagreements concerning the role of liberty as non-interference in republican discourse, there is general agreement that Berlin's definition of negative liberty is insufficient. Skinner, Pettit, Spitz and Viroli have all zeroed in on Berlin's 'liberal' definition of negative liberty as non-interference. As Viroli (2002: 40) would have it, Berlin seems to suggest a definition of liberty that is limited to *actual* interference, but leaves open "the constant possibility of interference due to the presence of arbitrary powers" (ibid.), thereby leaving the subject open to the "constant danger of being subjected to constraint" (ibid.: 42). For Pettit (1997: 63), what "constitutes domination is the fact that in some respect the power-bearer has the capacity to interfere arbitrarily, even if they are never going to do so." Likewise, for Skinner (2008: ix, xi) the "nerve of republican theory is thus that freedom within civil associations is subverted by the mere presence of arbitrary power" and therefore "liberty can be lost even in the absence of any acts of interference."

What is relevant, however, is far less this analytical critique of a certain way of conceiving liberty, but that Skinner (1998c), Pettit (1997), Spitz (1995) and Viroli (2002) all claim that Berlin's definition of negative liberty has served to obscure a third concept of liberty, or a second concept of negative liberty. For Pettit (1997: 19), Berlin's "philosophical and historical oppositions are misconceived and misleading and, in particular, that they

conceal from view a third, radically different way of understanding freedom and the institutional requirements of freedom.” For Skinner (1998c: 113), “with the rise of liberal theory to a position of hegemony in contemporary political philosophy, the neo-roman theory has been so much lost to sight that the liberal analysis has come to be widely regarded as the only coherent way of thinking about the concept involved.” Berlin’s narrative is viewed as “one hegemonal account of those values and how they should be interpreted and understood” (ibid.: 117), and we must liberate ourselves from the spell that has bewitched us “into believing that the ways of thinking about them bequeathed to us by the mainstream of our intellectual traditions must be *the* ways of thinking about them” (ibid.: 116). Viroli (2002: 41) also agrees that Berlin “overlooked a conception of political liberty that stretches back over centuries” and his dichotomy has neglected or squeezed out any middle third. Spitz (1995: 125) also claims that there seems to be no median path between negative and positive liberty such as Berlin defined them.

If republicans have attacked the binary opposition of negative and positive liberty, it is not simply to contest Berlin’s definition of negative liberty, but to recover a third concept of liberty, that of ‘liberty as non-domination’. In doing so, Skinner, Pettit, Spitz and Viroli all claim that they are not simply inventing a new definition of liberty to overcome the perceived inadequacies of negative liberty as non-interference, but are retrieving one that historically existed and has been forgotten. Such critiques are therefore pertinent to the history of ideas insofar as they allow us to recover the lost historical uses of the signifier ‘liberty’ and thereby reinterpret important political texts. To the extent that such a definition of liberty can be found among the fragments of classical republican thought that formed part of the linguistic matrix in Red River from the period of about 1835 to 1870, it will of course be relevant to my analysis of the political discourse of the Resistance.

I would argue that, in analytical terms, contemporary republicans are simply conflating the concept of liberty with that of security. In this regard, I agree with Berlin (1988: 208) when he claimed that positive ‘liberty’ in the sense of “autonomy and national freedom or independence” is in fact “a form of the search for security.”³³ As both Pettit (1997: 45-7) and

³³ That being said, it is an error to automatically lump autonomy and national freedom or independence together with isolationism, and economic autarky. Contrary to what Berlin (1998: 207) claims, autonomy, national freedom or independence *can* be the means to positive liberty in the form of collective self-realisation insofar as they seek to remove the obstacles to development. They do not *necessarily* imply the collective or

Skinner (1998c: 80) have pointed out, this line of thinking can be traced back to Bentham and especially William Paley. Paley's (1785) critique is particularly relevant in that it is specifically aimed at 'republican' thought. For Paley, republicans confused the means of preserving liberty – security – with the end – the substantive liberties at stake (Pettit, 1997: 46-47).³⁴ For his part, Montesquieu (1979: 326) voiced a similar interpretation of 'political liberty' when he asserted: "La liberté politique consiste dans la sûreté, ou du moins dans l'opinion que l'on a de sa sûreté."³⁵

Despite their denial that this is the case, they in fact find it extremely difficult not to slide into the language of security when arguing the case of liberty as non-domination. For Skinner (1998c: 22, note 65), a "full fledged republicanism" only emerges once "two distinctive premises are added to the argument" of negative liberty as non-interference.³⁶ What distinguishes non-interference from non-domination is not so much the substantive freedoms at stake, but two basic assumptions about "how they can best *be preserved*" (ibid.: 21. Emphasis added). It is all too telling that Pettit (1997: 51) recognised that the conception of negative liberty as non-domination "is positive to the extent that, at least in one respect, it needs something more than the absence of interference; it requires *security against* interference, in particular against interference on an arbitrary basis" (emphasis added). The relation between a self-governed State and individual liberty is apparent when Skinner (1998c: 65) asserts that such authors defended republican free States on the basis of the "capacity of such regimes *to secure* and promote the liberties of their own citizens" (ibid.:

political equivalent of positive liberty in the form of self-abnegation, that is, avoiding the obstacles that prevent one from doing as one wishes by simply abandoning one's desires.

³⁴ Michael Drolet (2001: 43, note 56) has recently made the same argument with reference to Bentham's notion of *security*. From an analytical point of view, this is arguably correct.

³⁵ According to Judith N. Shklar (1990: 265), "Montesquieu did for the latter half of the eighteenth century what Machiavelli had done for his century, he set the terms in which republicanism was to be discussed." Nelson (2004: 177) agreed that "Montesquieu's *De l'esprit des lois*, more than any other text, provided the ideological structure for eighteenth-century French republicanism." That being said, Shklar (1990: 266) asserted that Montesquieu believed "the republic was a political form that had no place in the modern age. It was a thing of the past" and that he "never wavered in his conclusion that they were utterly remote from the political world of modern Europe."

³⁶ The first of these two premises is that "any understanding of what it means for an individual citizen to possess or lose their liberty must be embedded within an account of what it means for a civil association to be free" (1998c: 23). This brings us back to our previous point, according to which "the capacity for self-government" (ibid.: 26) is a form of positive liberty. The second premise is simply the struggle for autonomy and the corresponding threat of heteronomy, that is where "states which are governed not by the will of their own citizens, but by someone other than the community as a whole" (ibid.: 36). In this, Spitz (1995: 143) is correct to point out that Skinner's definition of negative liberty as non-domination is in fact a form of positive liberty, that of collective self-realisation.

65. Emphasis added). Again, Pettit (1997: 45) explicitly describes liberty as non-domination in terms of “freedom as *security against* interference on an arbitrary basis” (emphasis added). Spitz (1995: 125, 179, 185, 188, 191, 192) constantly falls into the language of security (*sûreté, assurance, garantie, protection*). For his part, Viroli (2002: 42-3) distinguishes republican liberty from ‘democratic’ positive liberty, or autonomy, “because it holds that the will is autonomous not when the laws or regulations that govern my actions correspond to my will, but when I am *protected from* the constant danger of being subjected to constraint” (emphasis added).

Nevertheless, Skinner (1998c: 36-47) and Viroli (2002: 45-51) do present convincing enough arguments that numerous republican authors used the signifier ‘liberty’ to signify a particular political phenomenon associated with ‘non-domination’. That being said, classical republican thinkers also used the signifier ‘security’ to qualify this phenomenon. Aristotle (1932: 437) claimed that democrats “define liberty wrongly” because they take it to mean “doing just what one likes,” and this against “whatever may have been decided by the multitude.” In this regard, Aristotle opined that, “to live in conformity with the constitution ought not to be considered slavery *but safety* [σωτηρίαν]” (emphasis added).³⁷ In other words, the benefit of living in accordance with the law was in no way some form of ‘liberty’, but rather security.³⁸ Nor was Aristotle unique in this regard. The anonymous author of the sophist text entitled the ‘Anonymus Iamblichi’ basically argues that the advantage of abiding by the law is security (Dillon and Gergel, 2003: 316-317), an argument that was commonplace in the fifth century B.C.E. debate that opposed νόμος (law or convention) and φύσις (nature).

Furthermore, when Machiavelli (1997: 29) claimed that, “in every republic there are two different tendencies, that of the people and that of the upper class,” he used a language of non-domination when he stated that the goal of the nobles is “a strong desire to dominate”

³⁷ The term σωτηρία (*soteria*) can notably mean: “saving, deliverance, means of preserving, safe existence, well-being, ease” (Morwood and Taylor, 2002: 314). It could be argued that σωτηρία is used here in the sense of a ‘means of preserving’ and that ‘liberty’ is implied. In this case, however, Aristotle would be basically articulating the classical negative liberty argument according to which “were the law withdrawn, the effect would not be more liberty, but rather a diminution of the security with which our existing liberty is enjoyed” (Skinner, 1990b: 305).

³⁸ Once again, Aristotle’s critique of a certain way of conceiving liberty illustrates the extent to which Greeks could be individualistic and were perfectly capable of conceiving of negative liberty and doing so in terms of non-interference. The laws voted by the majority are seen here as an interference in their ‘liberty’ to ‘do what they like’, to the extent that they even speak of the laws as a form of ‘slavery’.

while the common people merely “desire not to be dominated” (ibid.: 31). Further on, however, he explicitly expressed this ‘desire not to be dominated’ in terms of safety and security. A prince who acquires a new territory where the people are used to being free “will discover that a small part of the people wish to be free in order to command, but all the others, who are countless, desire liberty in order to live in safety” (ibid.: 64).³⁹ As the former number “no more than forty or fifty citizens,” they can be eliminated or co-opted. As for the “others for whom it is enough to live in safety,” they “can be easily satisfied by establishing institutions and passing laws which provide for both the prince’s personal power and the public safety. When a prince does this and the people realize that under no circumstances will he break these laws, they will begin in a short time to live in security and contentment” (ibid.).

In analytical terms, the issue is of course much more complicated than the roughly sketched outline I have presented here. But as I am primarily concerned with historical conceptions, it is sufficient to note that, while Skinner and Viroli are correct that republicans conceived of non-domination as a form of liberty, the latter were also perfectly capable of seeing it as a question of security or safety that was strongly connected to the notion of the rule of law.

2.2. *The Rule of Law*

The thrust of the foregoing arguments does not contrast liberty and security; they merely claim that a fundamental condition of negative liberty as non-interference is security or non-domination. What is particular to republican language is the way it expressed the absence of security, or, to put it otherwise, the presence of both actual and potential domination. For English republicans, “what it means for an individual person to suffer a loss of liberty is for that person to be made a slave” (Skinner, 1998c: 36). In terms of the security of liberty, the single most important overarching principle is that of the rule of law.

Despite the tendency to associate the rule of law with liberalism and modernity, it can easily be traced back to ancient Greek sources. One of the founders of Athenian democracy, Solon, for example, declared: “Lawlessness brings the city countless ills, but Lawfulness reveals all that is orderly and fitting, and often places fetters round the unjust” (Gerber,

³⁹ This might be reversed to say that the people desire safety or security in order to live in liberty.

1999: 115).⁴⁰ The binary opposites of law and nature were much debated in the fifth century B.C.E. As part of this debate, Socrates advanced that what is lawful is just and therefore that citizens owed obedience to the laws of the city (Xenophon, 1923: 313-327). In *Laws*, Plato (1926a: 293) wrote that “wherever in the State the law is subservient and impotent, over the State I see ruin impending; but wherever the law is lord over the magistrates, and the magistrates servants to the law, there I decry salvation and all the blessings that the gods bestow on a State.” Likewise, Aristotle’s (1932: 207) celebrated phrase in his *Politics* asserts that “it is preferable for the law to rule rather than any one of the citizens, and according to this same principle, even if it is better for certain men to govern, they must be appointed as guardians of the laws and in subordination to them.”

The importance of the rule of law in republican discourse is often expressed more in terms of what it opposes – domination – rather than what it asserts – security. Aristotle (1932: 207) drew a distinction between constitutions that “aim at the common advantage” and are “framed in accordance with absolute justice” and “those that aim at the ruler’s own advantage only.” He then distinguished three ‘upright’ regimes – monarchy, aristocracy and ‘constitutionalism’ (πολιτεία) – from ‘crooked’ or deviated ones (παρεκβάσις) – tyranny, oligarchy and democracy (ibid.: 209). The latter “are faulty, and are all of them deviations from the right constitutions” (ibid.: 207). The fundamental difference between the two was that under the former all, both rulers and ruled, are subject to the empire of law, whereas under the latter, subjects were exposed to the arbitrary will of an individual, of the few or of the mob. In this regard, it should be stressed that, while the principle of the rule of law is essential to republicanism, it is by no means specific to it. In any event, for Aristotle, because “the law is that which is impartial” (ibid.: 267), he who recommends “that the law shall govern seems to recommend that God and reason alone shall govern” (ibid.: 265).⁴¹ This impartiality meant that “the law is wisdom without desire” whereas “he that would also have man govern adds a wild animal also; for appetite is like a wild animal, and also passion warps the rule even of the best men” (ibid.: 265).

The importance of the rule of law was often expressed through its negation in terms such as ‘tyrant’, ‘despot’ and ‘slavery’ which all suggest an arbitrary will. The expression

⁴⁰ Note the idea that it is quite explicitly recognised that the law coerces the unjust and in no sense ‘forces them to be free’ or is seen as being ‘constitutive’ of liberty.

⁴¹ One can see here traces of rational republicanism in Aristotle’s thinking.

‘despot’ (δεσπότης) comes from the Greek word for the master of a household (οἶκος), the management of which involved commanding slaves (δοῦλος). For Aristotle (ibid.: 209), the tyrant was to the political sphere what the despot was to the private. The implication of this private dimension of tyranny is that the tyrant governs the *res publica* as if it were his private estate, and therefore with an eye to his particular interests rather than the common good. This suggests the destruction of τὰ πράγματα κοινά, or the *res publica*, and a total loss of freedom, as citizens who are subject to the arbitrary whims of a tyrant, whether it be under a monarchy, an oligarchy or the multitude, and are therefore in a situation that is analogous to that of slaves who are subject to the arbitrary will of their master. This is notably why Aristotle (ibid.: 3) at the very outset of *Politics* refused any analogy between the management of a household and the government of the State; indeed, it was precisely because of its despotic nature that a democracy that was nothing more than a tyranny of the arbitrary will of the majority was not really a constitution at all, “for where the laws do not govern there is no constitution” (ibid.: 305).

In Athenian democracy, if the rule of law meant the protection of political and civil freedoms, it also meant an array of rights pertaining to equality. The most fundamental was that of ἰσονομία (*isonomia*), which basically meant equality before the law. Several political rights had to be legally granted to the citizenry in order to allow a democratic regime to function properly: ἰσηγορία (*isegoria* – ‘equal council’ or ‘speech’) granted discursive equality, or the equal right to speak in the assembly of citizens; ἰσοκρατία (*isocratia* – ‘equal power’ or ‘rule’) granted an equal right to rule; ἰσοτιμία (*isotimia* – ‘equal honour’) granted an equal right to be elected to city offices; ἰσόψηφος (*isopsephos* – ‘equal stone’) granted an equal vote,⁴² whether in the legislative or the judicial branch.⁴³

The use of the term ‘corrupt’ to designate regimes that have deviated from the rule of law is constant in the history of republican ideas. It is certainly no surprise that another figure of

⁴² Athenians used stones to vote. This metaphorically suggests an equal weight to each opinion.

⁴³ The importance of such rights is that they contradict somewhat Pocock’s (2003: 557, 562) claim concerning “face-to-face equality” where a community of “citizens whose fiercely competitive (and expansive) virtue may or may not regulate itself by establishing a discipline of equality (an equality of rule, it should be noted, rather than an equality of rights).” In fact, even relations in the agora were mediated by the law since there was no equality of rule without a prerequisite equality of rights as well as the legally established categories of ‘freeman’ and ‘citizen. As Pocock (ibid.: 68) recognised, “all citizens were not identical; they are alike *qua* citizens and universal beings, but dissimilar as particular beings.” In other words, if there is no *natural* equality of *individuals*, but merely a *conventional* equality of *citizens*, then the law is constitutive of equality. For this reason, equality can never be ‘face-to-face’ since it is always mediated by the rule of law.

classical republicanism, Cicero (1928: 459-561), understandably given his legal training, also insisted on the importance of the rule of law: “You understand, then, that the function of magistrate is to govern, and to give commands which are just and beneficial and in conformity with the law. For as the law governs the magistrate, so the magistrate governs the people, and it can truly be said that the magistrate is a speaking law, and the law a silent magistrate.”

The importance of the rule of law is evident as well in Italian Renaissance republicanism. For example, in his *Discourses on Livy*, Machiavelli (1997: 140-145), while arguing that ‘the multitude is wiser and more constant than a prince’, qualified this by specifying that the Roman people were “a multitude regulated by laws” (ibid.: 142). Further on, he added that “just as the states of princes have long endured, the states of republics have long endured, and both have needed to be regulated by laws, because a prince who is able to do what he wishes is mad, and a people that can do what it wishes is not wise” (ibid.: 144).

The influence of the common law in English political thought, and notably the *Magna Carta, 1215*, assured that the principle of the rule of law would be reinforced in the process of the reception of republican thought in England (Pocock, 2003: 19-22). This was carried over into the English colonies in North America (Bailyn, 1992: 30-31; Wood, 1969: 273-282). For example, in *Common Sense*, Thomas Paine (1997: 31) proclaimed that “in America the law is king.” Early on, Usonian political discourse adopted English republican arguments and the evolving notion of a constitution where laws themselves could be declared unconstitutional (Bailyn, 1992: 175-198). In Lower Canada, the *Patriotes*, who borrowed from Usonian political discourse, also argued the importance of the rule of law, notably in the *92 Résolutions*.

2.3. A mixed and balanced constitution

Another means by which republican thought seeks to secure liberty is that of a mixed and balanced constitution. For both Zera Fink (1945) and John Pocock (2003), the principal mark of the ‘republican tradition’ in Western political thought is the defence of a mixed constitution. While many insist on the influence of Polybius, James Blythe (1992) has shown that Polybius’ writings were in fact not available until the sixteenth century. It was therefore through the works of Thomas Aquinas that Aristotle’s idea of a mixed constitution initially

became available to Renaissance thinkers.⁴⁴ It was notably Aristotle's version of the balanced constitution that influenced William of Ockham and John Fortescue, the latter figuring prominently in Pocock's *Machiavellian Moment* (2003: 9-22). It should be mentioned, however, that the idea of a mixed constitution in political thought can be traced at least back to Plato's *Laws* (1926a: 411) where he mentioned a mixed regime, although Plato himself opted for a mixture of monarchy and aristocracy.

Aristotle (1932: 107) remarked that, "some people assert that the best constitution must be a combination of all the forms of constitution, and therefore praise the constitution of Sparta (for some people say that it consists of oligarchy, monarchy and democracy)." Along with Sparta's constitution (ibid.: 133-149), Aristotle also looked at those of Crete (ibid.: 149-157) and Carthage (ibid.: 157-163), as examples of a mixed constitution. While very critical of all these constitutions, Aristotle nevertheless asserted that, "the constitution composed of a combination of a larger number of forms is better" (ibid.: 107). The primary reason for this seems to be that "the better the constitution is mixed, the more permanent it is" (ibid.: 339). Aristotle (ibid.: 315) himself favoured a 'constitutional regime' (πολιτεία), which was "to put it simply, a mixture of oligarchy and democracy." It would seem that he modelled his 'constitutional regime' somewhat on the constitution of Athens established by Solon, who "established our traditional democracy with a skilful blending of the constitution: the Council on the Areopagus being an oligarchic element, the elective magistracies of aristocratic and the law-courts democratic" (ibid.: 165).

In a similar vein, Polybius (1923: 273) wrote that "it is evident that we must regard as the best constitution a combination of all these three varieties, since we have had proof of this not only theoretically but by actual experience, Lycurgus having been the first to draw up a constitution — that of Sparta — on this principle." According to Polybius (ibid.: 291-293):

Lycurgus [...] did not make his constitution simple and uniform, but united in it all the good and distinctive features of the best governments, so that none of the principles should grow unduly and be perverted into its allied evil, but that, the force of each being neutralized by that of the others, neither of them should prevail and outbalance another, but that the constitution should remain for long in a state of equilibrium like a well-trimmed boat, kingship being guarded from arrogance by the fear of the commons, who were given a sufficient share in the government, and the commons on the other hand not venturing to treat the kings with contempt from fear of the elders, who being selected from the best citizens would be sure all of them to be always on the side of justice; so that

⁴⁴ According to Julia Conaway Bondanella, Books I-IV were translated from Greek to Latin as early as 1450. However, Book VI was not translated until sometime later (Machiavelli, 1997: 362, note 23).

that part of the state which was weakest owing to its subservience (293) to traditional custom, acquired power and weight by the support and influence of the elders. The consequence was that by drawing up his constitution thus he preserved liberty at Sparta for a longer period than is recorded elsewhere.

Polybius also spoke of both the Roman and the Carthaginian constitutions as being mixed. The main theme behind a mixed and balanced constitution was corruption, which is again defined as putting individual interest before the public interest. One of the ways of preventing corruption was to balance the different regimes. In order to avoid the perennial problem of sedition – either of the many against the few or the few against the many – an important issue in republicanism is that of participation. Of course, an elected assembly transforms the issue of participation into a question of representation.

In *De Re Publica*, Cicero (1928: 151) had Scipio state that he considers “the best constitution for a State to be that which is a balanced combination of the three forms mentioned, kingship, aristocracy and democracy.” Of course, *De Re Publica* was only indirectly known during the Renaissance, since the actual text was only discovered in 1820 (ibid.: 9). Nevertheless, the existence of the work was known due to it being mentioned by other classical authors, and it undoubtedly reinforced existing conventions surrounding the mixed constitution when it appeared in the early nineteenth century. While Machiavelli was influenced by Roman thought, rather than Greek, it was nevertheless the example of Polybius that he followed. For Machiavelli (1997: 26), even the three upright forms of government – monarchy, aristocracy and democracy – were defective. Consequently, “those men who were prudent in establishing laws [...] chose a form of government that combined them all, judging such a government steadier and more stable, for when in the same city there is a principality, an aristocracy, and a democracy, one keeps watch over the other” (ibid.).

As early as the Elizabethan period, John Aylmer (1521-1594) described England in 1559 as not “a mere monarchy, as some for lack of consideration think, nor a mere oligarchy, nor democracy, but a rule mixed of all these” (Mendle, 1985: 49). Aylmer went on to say that in the mixed constitution, “each one of these have or should have like authority.” He argued that the King-in-Parliament was not the ‘image’ of a mixed state “but the thing in deed.” It was in Parliament that one found the three estates: “the king or queen, which represents the monarchy; the noble men which be the aristocracy; and the burgesses and knights the

democracy.” This was not how Parliament actually functioned, but as Aylmer saw things, “*if* the Parliament use their privileges, the king can ordain nothing without them.” He even compared the mixed government of Tudor England with Sparta, “the noblest and best city governed that ever was.” We see here that Pocock (2003: 355) was not entirely accurate when he believed that “a normative theory of balanced or mixed government was incompatible with Tudor notions of descending authority.”

Regardless of whether this principle had its ultimate source in Aristotle or Polybius – it is more likely that it had multiple sources and the one reinforced the other – this remained a fundamental principle of republican thought in England throughout the seventeenth and eighteenth centuries (Pocock, 2003: 364-371). For example, Molesworth’s *An Account of Denmark* (1694) “established the general point, implicit in all similar histories but explicit in this one, that the preservation of liberty rested on the ability of the people to maintain effective checks on the wielders of power” (Bailyn, 1992: 65). It also formed part of Usonian thought in the seventeenth century (Bailyn, 1992: 70-77) and in the eighteenth century right up until the Revolution (Woods, 1969: 197-255). However, one of the most significant contributions of Usonian political thought was substituting the idea of a balance of social estates with a balance of governmental functions (Banning, 1974: 173), or a mixed ‘organic’ constitution with a ‘mechanical’ separation of powers (Brugger, 1999: 93).

While Étienne Parent accepted that the intention of Imperial Parliament was to grant Upper and Lower Canada constitutions modelled on that of Great Britain, he maintained that it had failed to put those principles into practice (Ajzenstat, 1997: 215). Of course, one of the objectives of the *Constitution Act, 1791*, was to avoid the error of the overly democratic and ‘unbalanced’ constitutions of the thirteen colonies and to better reproduce the proper balance of the British Constitution (Romney, 1999: 59; Ajzenstat, 2007: 117). This did not prevent both the *Parti canadien* and the *Parti patriote* in Lower Canada from responding with their own rhetoric in favour of a mixed and balanced constitution (Harvey, 1997: 99).

2.3.1. The Monarchical Principle and Executive Power

While historian Allan Greer (1993: 194) seemed to assimilate republicanism with ‘anti-monarchical sentiment’, many other scholars appear to automatically class any regime that accepts the principle of monarchy as ‘constitutionalist’ and therefore leaning toward

liberalism. As David E. Smith (1999: 12) commented, “republicanism means more than government without a king.” Skinner (1998c: 22-3, note 67; 174, 176) initially attempted to distinguish seventeenth century English republicanism “in the strict sense,” because it repudiated “the institution of monarchy,” from ‘neo-Romans’, who “stressed the compatibility of their theory of liberty with regulated forms of monarchical government.” If the ‘neo-roman’ authors that Skinner studied accepted a monarchy, however, it was within a republican doctrine of a mixed constitution, where the senate and a democratic assembly provide checks and balances. For them, it was “possible, at least in principle, for a monarch to be the ruler of a free state” (ibid.: 55).

Of course, Roman republicans like Cicero would have begged to differ. For Cicero (1928: 153), “in a State where there is one official who holds office for life, particularly if he be a king, even if there is a senate [...] and even if the people possess some power, [...] in spite of these facts the royal power is bound to be supreme and such a government is inevitably a monarchy.” Roman republicanism did of course include a monarchical principle, but it replaced its king with two consuls who were elected by the Century Assembly (*comitia centuriata*) and confirmed by the Curiate Assembly (*comitia curiata*) for a one-year term. That being said, in light of the fact that the Roman republic retained the monarchical principle in a mixed government, I see no reason why the term ‘republican’ should necessarily be limited to those regimes that repudiate the institution of monarchy entirely.

As Greer (1993: 193) notes, the “American and French revolutions were well under way before their bourgeois leaders began to attack [...] the institution of the monarchy.” In effect, the Usonian revolutionaries long remained faithful to the king, and at times he was seen as the only link holding the empire together (Bailyn, 1992: 222). Their political claims were in fact largely based on their status as British subjects and even when they denounced the corruption of the ministers of the Crown, most “commentators, until 1776, considered the Crown equally the victim of ministerial machinations” (ibid.: 128). As one colonialist put it, “if the King can do no wrong, his ministers may” (ibid.: 125). When the Usonians finally broke with the monarchy, they nevertheless kept the institution of Governor in the various State constitutions, even if it was “absolutely divested of all its rights, powers and prerogatives” and was “a very pale reflection indeed of his regal ancestor” (Wood, 1969: 132-143). They also integrated the monarchical principle into the state federal constitution in

the office of the President and, in this way, “the monarchical element was converted into a presidential one” (Skinner, 1998c: 36). In Upper Canada, “Reformers did not usually find themselves going head to head with the Imperial authorities. Their immediate enemy was the Family Compact, and the British government normally figured in their rhetoric as a benign but ill-informed ruler, misled by governors, who had fallen under the influence of the oligarchy” (Romney, 1999: 58).

The importance of the monarchical principle is that it makes republicanism perfectly compatible with loyalty to the Crown. As Greer (1993: 193) notes, people “who have been taught to regard the distant king as a father-figure who has the best interests of his subjects at heart, often tend to conclude, when things go badly, that exploitive officials, merchants, or aristocrats are the monarch’s enemies as well as their own. In this way, royalism can become a revolutionary ideology.” Greer even provides an example of an individual who sang, “If the Queen knew of the abuses, she would say to all good patriots, crush these ass-lickers” (ibid.: 194-5). Like the Usonians, the *Patriotes*, “until the eve of the Rebellion, always protested their loyalty to the Crown even as they denounced colonial Tories and wicked British ministers” (Greer, 1993: 193).

2.3.1.1. Hedging in the Monarchical Principle

The problem, then, is not so much with the presence of a monarchical principle in the constitution, which could be said to simply represent the executive power of the State, but rather with the powers that the executive branch wields and the checks and balances to which such power is subject. What ultimately mattered, from a republican perspective, was that one of the ways in which “public servitude can arise is when the internal constitution of a state allows for the exercise of any discretionary or prerogative powers on the part of those governing it” (Skinner, 1998c: 50-51). In this regard, what perhaps most distinguishes republican and liberal accounts of the monarchical principle is that republicans severely limit or deprive the monarch of most of his royal prerogatives and place them in the hands either of the people or of their elected representatives.

Once again, three of the most fundamental means for limiting the power of the executive can be traced back to Athenian democracy. The first was to provide for the election of officials by the people, rather than to allow them to be appointed. The second was to limit

strictly the tenure of office. The third was to provide for the audit of all officials at the end of their term, whether by the Assembly of the people, or that of its representatives. Aristotle (1932: 351) was notably in favour of the election of the ‘best men’ – literally ‘aristocrats’ – based on the principle of merit, although the fact that they were elected by the people lent a democratic legitimacy to what otherwise is an aristocratic regime. Machiavelli (1997: 143) more or less built on Aristotle’s logic when he asserted that it was “evident that in the selection of magistrates the people make far better choices than a prince, for one can never persuade the people that it is good to elect to public office an infamous man with corrupted habits, something that a prince can be persuaded to do easily and in a thousand ways.”

In the context of the English Crown, the King’s power to appoint officers of the Crown, including judges, was part of his royal prerogative. For example, following the Norman Conquest, the king was considered to be the ‘fountain of justice’ and was initially personally present on the bench of the common law court. Although he eventually delegated his authority to representatives whom he personally appointed to sit on the ‘King’s bench’ in his place, he retained his personal prerogative to remove them at will, destroying any judicial independence. Likewise, when he began appointing officers from among the members of the House of Commons, it was considered to be a source of corruption of the legislative branch, as any appointed officer would owe his loyalty to the Crown rather than to the people who elected him to the House (Bailyn, 1992: 276-277). One of the ways of limiting the arbitrary rule of the monarch was to reduce the ambit of the royal prerogative.

The incapacity to control the executive in any way was one of the principal factors that led to accusations of prevalent corruption in the Thirteen Colonies prior to the Revolution, notably concerning governor-generals and customs officers in the colonies (Bailyn, 1992: 102-103), as well as ministers of the Imperial government (ibid: 124-130). For Usonians, the power of appointment was “the most insidious and powerful weapon of eighteenth-century despotism” (Wood, 1969: 143). Consequently, calls for the election of the magistrates, both of executive positions and judges, was a theme that was present in the political discourse of the Thirteen Colonies well before the Revolution broke out. It was suggested in Pennsylvania, for example, that there be “popularly elected and moderately paid judges and local officers, and militia armies with elected field commanders” (ibid.: 297). In addition, the principle of the rule of law and of the respect of the balance of powers was important in

Usonian discourse as a means of controlling the Crown's prerogatives. In the United States, "the prime requisite of constitutional liberty" was "an independent Parliament free from the influence of the crown's prerogative" (Bailyn, 1992: 86).

The critique of patronage appointments was also a major issue in the discourse of the *Patriotes* in Lower Canada. In the political conflict that led to the Rebellion of 1837-1838, "the *Patriotes* were seeking to wrest control of the colonial government from the hands of the Governor and what they considered to be his corrupt entourage of appointed officials" (Harvey, 1997: 98). In the case of United Canada, Romney (1999: 63) essentially claimed that the Reformers' demand for responsible government was an ideological manoeuvre: "If only they could dress up responsible government as a British principle rather than as a grab for sovereign power, as a monarchical rather than a republican solution to the colony's problems, as a remedy to domestic tyranny rather than a threat to imperial unity, they might be able to convince Whig ministers and British immigrants alike."

2.3.2. The Aristocratic Principle and the Judiciary

In its literal translation, the Greek term 'aristocracy' simply means the 'rule of the best' and does not necessarily imply a particular social class, although the 'best' was often construed as being those of noble birth. As the best were necessarily the few, an aristocracy was necessarily an oligarchy, but neither simply a plutocracy, where wealth is the criterion to rule, nor a timocracy, where military honour is seen as a title to rule. While for Aristotle it was most important that the aristocratic principle be the criterion of selection of those who were to fill the offices in the executive branch of the State, it more commonly took on the form of a separate council from the assembly of the people, such as in the constitutions of Sparta, Crete, Carthage and Rome.

In England, the term 'aristocracy' contained elements both of timocracy, as the titles of peers were originally granted for military services, and plutocracy, as the peers received grants of large land holdings in return for, and in order to provide, military services. For Harrington, the right to deliberate and the right to enact policies had to be separate if one wished to avoid an excessive concentration of power. Since "the wisdom of the commonwealth is in the aristocracy" (Harrington qtd. in Skinner, 1998c: 35), Harrington believed the Senate should be drawn from the nobility. For his part, Sidney spoke of the

need of an upper house “to temper the absolutism of monarchs and the excesses of the multitude” (Skinner, 1998c: 35).

In the Thirteen Colonies, where a hereditary aristocracy ran too much against the grain of equality to have any legitimacy, it was the Harringtonian idea of a ‘natural aristocracy’ that predominated (Pocock, 2003: 515). Some, like William Drayton, suggested replacing the appointment of “strangers from England” with councillors “appointed for life from among those qualified not only by local birth and residence but by local property in sufficient quantity to distinguish them in an unmistakable way from the population at large and make them independent of pressures and temptations from any source” (Bailyn, 1992: 280).

In their proposals to reform their own upper chamber, the Legislative Council, the *Parti patriote* in Lower Canada largely adopted the Usonian line of thought. They notably “envisaged an upper house that would act as a balance against the will of the people” (Harvey, 1997: 99). In 1826, Papineau at first argued in favour of an appointed plutocracy, composed of “rich, independent, and thus virtuous, land holders” in the upper house (Harvey, 1997: 89). In 1833, the newspaper *Le Canadien* spoke out in favour of an elected U.S. style Senate, with “election to the council to be reserved to those owning land in the colony” (Harvey, 1997: 98). The *Patriotes* also borrowed from English opposition and Usonian language when they spoke of electing an “aristocratie des talents et vertus” or an “aristocratie naturelle” to the upper house (Harvey, 1997: 99).

2.3.3. The People and the Legislative

There is perhaps little need to insist on this particular institution, as it is common to republicans, liberals and democrats. In addition, the existence of a legislative assembly was not really an issue in most of the history that concerns us, as a House of Commons existed in England, all the thirteen colonies enjoyed elected legislatures at the time of the Revolution and both Upper and Lower Canada enjoyed elected lower houses since the *Constitution Act, 1791*. That being said, insofar as the legislature is a constituted institution, republicans and liberals would subject the will of the majority of the legislature to the rule of law and only allow for will of the constituent majority in cases of ‘extraordinary politics’. Where republicans differ from liberals is, as we have seen, in their more acute concern about the potential corrupting influence of the Crown’s prerogative on the lower house.

In all cases, there was a certain aristocratic element that was present in the idea of an elected assembly. For Aristotle (1932: 349), “when the members of the deliberative body are elected on comparatively moderate property qualifications, and [...] follow the law, and when anybody acquiring the property qualification is allowed to become a member, a constitution of this sort is indeed an oligarchy, but one of the nature of a constitutional government, because of its moderation.” In other words, one must not confuse republicanism and democracy or populism. If democracy is an essential element of republicanism, it is only one of the three elements that make up a mixed regime. As previously stated, McCormick (2003: 616) is not entirely wrong that republicans, from Aristotle and Cicero through to the founding fathers of the Usonian Federal Republic, have always held an elitist view of republicanism and a deep-seated distrust of the democratic element. For John Adams, it was necessary “to depute power from the many to a few of the most wise and good” (qtd. in Bailyn, 1992: 289).

The role of an elected assembly in a mixed constitution was perhaps best expressed by Nedham, for whom “the only way to prevent arbitrariness, is, that no laws or dominations whatsoever should be made, *but by the people’s consent*” (qtd. in Skinner, 1998c: 27. Emphasis added). One of the most important aspects of an elected assembly was its capacity to represent the consent of the people. As Nedham put it, that “no laws could be imposed upon them *without a consent* first had in the people’s assemblies” (ibid.). Milton went somewhat further when he declared that “if we are to count as a free people, we must submit only to ‘such Laws as our selves shall choose’” (Skinner, 1998c: 30). Likewise, for Sidney, “when we speak of nations that have enjoyed liberty we mean those nations that ‘were, and would be, governed only by laws of their own making’” (ibid.). That being said, if the seventeenth century English republicans evoked the “equal right of participation in the making of laws” (Skinner, 1998c: 30), they did not imply a democratic regime, but fit representative institutions into a mixed and balanced constitution.

As is all too well known, the central idea of ‘no taxation without representation’ was the right to be consulted. A resolution was passed at a public meeting in Boston in 1768 that proclaimed “the indefeasible right of [British] subjects to be consulted and to give their free consent in person or by representatives of their own free election [...]; and the inhabitants of

this town, being free subjects, have the same right derived from nature and confirmed by the British constitution as well as the said royal charter” (Bailyn, 1992: 113).

2.4. Citizenship

In this section, I will elaborate on three factors that are relevant to classical republican citizenship. In this regard, I would argue that there is not so much a distinction between ‘active’ and ‘passive’ citizenship in classical republicanism as varying levels of duties that correspond to different functions.⁴⁵ The first factor is the possession of that thing called virtue. According to most republican authors, there are several different kinds of virtue that are required of citizens, depending on the particular activity in which they are involved. The particular virtue of honour and active citizenship as a bulwark against corruption leads to the second factor or the role of the citizen-soldier. The third factor is the role of property in the status of citizenship as a means of maintaining virtue and thereby avoiding corruption.

2.4.1. Virtue

If virtue is one of the most important concepts of republican thought after liberty, it is notoriously difficult to define with any precision due to the fact that its meaning has shifted so many times from archaic Greece to Modernity, with older meanings continuing to coexist with innovations. For Pocock (2003: 4), this vocabulary of ‘virtue’, ‘fortune’ and ‘corruption’ involved “the principal modes of rendering the particular phenomenon, the particular event in time, as far intelligible as possible.” It is this condition of *fortuna* – an irrational universe in constant flux – and mankind’s inherent incapacity to ever attain certainty that makes the possession of *virtù* so important for any Statesman. When Pocock (ibid.: 36) briefly touched on the similarities between the Roman notions of *virtu* and *fortuna* and the Greek ones of ἀρετή (*aretè*) and τύχη (*tukhè*), he notably mentioned that, in the hands of Socrates and Plato, the meaning of ἀρετή shifted from a political and military ethos to a sort of moral goodness (2003: 37). Similarly, Douglas E. Gerber (1999: 57, note 4) remarked that in Tyrtaeus’ elegiac poems, which date from the seventh century B.C.E., ἀρετή is “a word which here encompasses the qualities of excellence deemed necessary for

⁴⁵ For a discussion of the presence of active and passive citizenship in classical republican thought, see Burchell (2004: 96-104).

one to be an ideal soldier.”⁴⁶ However, the type of ἀρετή that one had to possess depended on the functions that one was performing.

A first distinction in the different types of ἀρετή is between that required of the young, which is relative to military functions, and that of the old, which is relative to political functions. Aristotle (1932: 575) notably divided citizenship duties between “the military class and the class that deliberates about matters of policy and judges questions of justice.” For Aristotle, each of the deliberative and military functions “belongs to a different prime of life” since “one requires φρόνησις and the other strength” (ibid.). For this reason, these functions were not associated to different classes since both should be assigned to citizens “without distinction, yet not simultaneously, but, as in the natural order of things strength is found in the younger and φρόνησις of the elder” (ibid.: 577). As the question of the type of ἀρετή that is necessary to perform military functions will be addressed in the following section, the first question regards what Aristotle understood by φρόνησις (*phronesis*), which can be translated as practical wisdom or prudence.

In his *Nicomachean Ethics*, Aristotle (1934: 341) followed Plato’s idea of ‘science’ (ἐπιστήμη), or the knowledge of “universals and things that are of necessity.” While Aristotle (1934: 617) agreed with Plato that the contemplative life “will be higher than the human level,” he nevertheless thought that the part of the soul responsible for the cognition of phenomena at the human level was rational and also warranted the status of ‘knowledge’, all the while denying it the status of a ‘science’. As such, Aristotle (ibid.: 327) saw φρόνησις (*phronesis*) as being the virtue of the ‘calculative faculty’ with which “we contemplate those things which admit of variation” and form opinions (δόξα) (ibid.: 341). In other words, Aristotle’s φρόνησις is the means by which humans can deal with the unpredictability and precariousness of the constant flux of events in the world of becoming – in other words, a virtue adapted to ἡ τύχη.⁴⁷ Furthermore, φρόνησις “is concerned with the affairs of men, and with things that can be the object of deliberation” (ibid.: 345); it “includes a knowledge of particular facts” which is “derived from experience” (ibid.: 349-351). Aristotle (1932: 601)

⁴⁶ “Let everyone strive now with all his heart to reach the pinnacle of this excellence [ἀρετή], with no slackening in war.” “For no man is good in war unless he can endure the sight of bloody slaughter and, standing close, can lunge at the enemy. This is excellence [ἀρετή], this is the best human prize and the fairest for a young man to win.” (Gerber, 1999: 59, 61).

⁴⁷ To be sure, the precise meaning of φρόνησις in the *Nicomachean Ethics* is a subject of controversy even among specialists (see Boréüs, 1993: 27-38). I do not claim to resolve the debate here in any way.

accepted that “men learn some things by practice, others by precept.” Aristotle (1934: 615) also specified that, “the practical virtues (πρακτικῶν ἀρετῶν) are exercised in politics or in warfare.” This ties in with his comments in *Nicomachean Ethics*, where Aristotle (1934: 349-351) stated that he did not “consider that a young man can have φρόνησις. The reason is that φρόνησις includes a knowledge of particular facts, and this is derived from experience, which a young man does not possess; for experience is the fruit of years.”

The second question is how φρόνησις was to be applied to the different political functions of the State. In the first place, Aristotle (ibid.: 345) divided these between, first, “the body that deliberates about the common interests, second the one connected with the magistracies,” and third “the judiciary” – in other words, the legislative, executive and judiciary branches. For Aristotle (1934: 347) φρόνησις “is indeed the same quality of mind as the [art of politics]⁴⁸ though their essence is different” in that both involved deliberation.⁴⁹ Aristotle (ibid.: 137, 139) did not include the ‘legislative science’ (νομοθετική) or the ‘legislature’ (νομοθεσία) in the ‘art of politics’. The reason for this is that the former involves knowledge of universal truths whereas the latter involves the application of those rules to a particular context, something that is specific to the executive and judicial functions.⁵⁰ The particular ἀρετή demanded of the legislator is compared to that of a master craftsman (ἀρχιτεκτονική), whereas the type of ἀρετή necessary for the application of rules, whether by a magistrate or a judge, is compared with the execution of a handicraftsman (χειροτέχναι). In other words, legislation is a *science* that is concerned with determining universal ends while politics is an *art* that involves determining the means to achieve those ends in particular cases.

Aristotle also asserted that “practical wisdom [φρόνησις] alone of the virtues is the virtue of the ruler” (ibid.: 195). It is possible, however, that he was not talking about a democracy

⁴⁸ Rackham translated πολιτική as ‘Political Science’, but Aristotle (1934: 351) makes it very clear that “φρόνησις is not the same as Scientific Knowledge.” In this context, Aristotle uses the term γνῶσις (*gnosis*) to designate a form of knowledge that is concerned with particular facts rather than ἐπιστήμη (*episteme*), or ‘science’, that is knowledge that is concerned with universal truths. The latter are not open to deliberation, as they cannot be other than they are (Aristotle, 1934: 333). Only ‘wisdom’ is concerned with science.

⁴⁹ For Aristotle (ibid.: 349), the art of politics included εὐβουλίας, or ‘art of deliberation’, and δικαστική, or ‘juridical art’.

⁵⁰ Given Aristotle’s definition of φρόνησις as a ‘knowledge of particular facts, and this is derived from experience’, one would think he would associate this type of ἀρετή strictly with the art of politics. On the contrary, he stated that “φρόνησις as regards the state, one kind, as supreme and directive [ἀρχιτεκτονική], is called the Legislative Science.” It is difficult to make sense of this passage unless Aristotle used φρόνησις here as a synonym for σοφία (*sophia*), or wisdom.

in this context.⁵¹ When Aristotle (1932: 177) defined a citizen, he admitted that “the definition of a citizen that we have given applies especially to citizenship in a democracy.” In this regard, when he took on the issue concerning the ἀρετή of citizens (ibid.: 187), it made sense that the ἀρετή “of a citizen consists in ability both to rule and to be ruled” (ibid.: 191). For Aristotle (ibid.: 575) “democracies are states in which all the people participate in all the functions.” But if citizens in a democracy rule in turn, then all citizens, they would all necessarily have to possess φρόνησις. Elsewhere, Aristotle (1932: 189) seemed to agree with the conventional wisdom that all citizens who take part in politics must have practical wisdom [εἶναι φρόνιμον]. If this be the case, then φρόνησις is not an ἀρετή that is specific to magistrates only, but would rather be a quality shared by all citizens.

On the other hand, Aristotle mentioned that certain democracies applied the aristocratic principle of merit by electing ‘the best men’ to the magistracy offices rather than randomly nominating citizens by drawing lots. In such democracies, it is customary “for officials to be chosen on the ground of capacity. And a state governed in this way will always be governed well (for the offices will always be administered by the best men with the consent of the people and without their being jealous of the upper classes” (1932: 499). This is also reflected in Pericles’ famous Funeral Oration, where he reminded Athenians that:

[...] while as regards the law all men are on an equality for the settlement of their private disputes, as regards the value set on them it is as each man is in any way distinguished that he is preferred to public honours, not because he belongs to a particular class, but because of personal merits; nor, again, on the ground of poverty is a man barred from a public career by obscurity of rank if he but has it in him to do the state a service (Thucydides, 1928: 323).

Furthermore, when Aristotle (1932: 177) defined a citizen of a democracy as one who participates in the deliberative and judicial functions, he notably leaves out the executive branch, or those magistracies that “give orders” (1932: 357). Aristotle (1932: 431) also provided “three qualities which those who are to hold the supreme magistracies ought to possess, first, loyalty to the established constitution, next, very great capacity to do the duties of the office, and third, virtue and justice – in each constitution the sort of justice suited to

⁵¹ More precisely, Aristotle (1932: 195) wrote that “practical wisdom [φρόνησις] alone of the virtues is a virtue peculiar to the ruler; for the other virtues seem to be necessary alike for both subjects and rulers to possess, but wisdom [φρόνησις] assuredly is not a subject’s virtue, but only right opinion [δόξα ἀληθής].” Tabachnik (2004: 1000) interprets this as meaning that not any citizen can be a *phronimos*. However, Aristotle’s language here is that of ruler (ἄρκοντος) and ruled (ἀρχόμενος) not that of a citizen (πολίτης), whose virtue (ἀρετή) “consists in ability both to rule and to be ruled well” (Aristotle, 1932: 191).

the constitution.” The question is what specific kind of ἀρετή, or particular aspect of φρόνησις, was entailed in these ‘very great capacities’ that one must possess in order to be eligible to hold these offices.

As Detienne and Vernant (1974: 10) remarked, Aristotle’s definition of φρόνησις (*phronesis*) contains many of the traits of the Greek notion of μήτις (*mêtis*). An example that illustrates the qualities of μήτις can be found in Pindar’s *For Melissos of Thebes* (1997: 165-167), where Olympic wrestlers face each other in the arena (ἀγών): “Since to those that do not take part belongs oblivious silence; But even when men strive, fortune [τύχας] remains hidden, before they reach the final goal, for she gives some of this and some of that, and the skill of inferior men can overtake and bring down a stronger man.”⁵² The role of τύχη or *fortuna* in the fate of men is evident here. Pindar (ibid.167-169) continued, adding that during the struggle, the physically weaker man in the contest, Melissos, “resembles the boldness of loudly roaring lions in his heart, but in skill [μῆτιν] he is a fox, which rolls on his back to check the eagles swoop. One must do everything to diminish one’s opponent.” What allowed Melissos to win, despite being the ‘inferior’ or ‘weaker’ man’ in the contest, was both his courage (lion) and his skill or cunning (fox). The moral behind Pindar’s expression that ‘one must do everything to diminish one’s opponent’ could not be clearer: in a potentially life-threatening situation, the end justifies the means.⁵³

What is interesting in *For Melissos of Thebes* is Pindar’s use of the term μήτις (*mêtis*) – or μῆτιν in the accusative form – to describe what has been translated as the ‘wisdom’ of the fox, but is perhaps better translated as ‘cunning’. This particular form of knowledge is derived from the goddess Μήτις (*Metis*) in Greek mythology. For Détienne and Vernant (1974: 17), the particular intelligence of μήτις is “un certain type d’intelligence engagée dans la pratique, affrontée à des obstacles qu’il faut dominer en rusant pour obtenir le succès dans

⁵² Although Aristotle (1926: 335) dismissed Protagoras’ claim to make “the worse appear the better argument” (or rather, “the weaker appear the stronger argument”) as a lie, Protagoras was probably drawing an analogy with wrestling (on which he wrote a treatise), that someone who was skilled in rhetoric could ‘overtake and bring down’ an opponent who had a *prima facie* better or stronger argument. It could also possibly mean that rhetoric allows the ‘weaker’ position, or that of a minority, to persuade individuals until it becomes the ‘stronger’ or the position of a majority.

⁵³ For Machiavelli (1975: 105), the singular quality that the prince, or the statesman in general, had to possess in order to face the fickle *fortuna* was that of *virtù*. This was no Christian virtue, but the courage of the lion and the cunning of the fox. The characteristics of these very animals were condemned by Cicero in *De Officiis* (2000: 16): “There are two ways of inflicting injustice, by force or by deceit. Deceit is the way of the humble fox, force that of the lion. Both are utterly alien to human beings, but deceit is the more odious.”

les domaines les plus divers de l'action” (ibid.: 8) Like φρόνησις, this type of knowledge is the result of “une expérience longuement acquise” and the man who possesses it is “plus riche de l’expérience accumulée dans le passé” (ibid.: 21).

While D tienne and Vernant (ibid.: 19-31) give four characteristics of μήτις, I will separate them into two aspects: 1) the spatial zone and temporal horizon that lend themselves to the application of μήτις; and 2) what can be properly termed the characteristics of μήτις. In terms of the first point, D tienne and Vernant first note the opposition between the use of brute force and recourse to wiliness and second the temporal horizon of application. The spatial zone to which μήτις applies is one of struggle, or ἀγών – the battlefield, the arena, the wrestling ring, the racetrack, the law courts or the assembly. The logic of such a space is one of ἀγωνισμός – of contention, competition between two opposing forces. The temporal zone of application is precisely that of τύχη or the Greek equivalent of *fortuna*, that is the world of becoming or phenomenological reality: “Elle porte sur des r alit s fluides, qui ne cessent jamais de se modifier et qui r unissent en elles,   chaque moment, des aspects contraires, des forces oppos es” (ibid.: 28). In such conditions, the individual endowed with μήτις shows himself to be “plus concentr  dans un pr sent dont rien ne lui  chappe, plus tendu vers un avenir dont il a par avance machin  divers aspects, plus riche de l’exp rience accumul e dans le pass ” (ibid.: 21).

As for μήτις herself, her characteristics are twofold: 1) she is neither single nor united, but multiple and diverse; 2) the tools of her trade are duplicity or the use of masks to conceal or disguise herself. In order to “dominer une situation changeante et contrast e, elle doit se faire plus souple, plus polymorphe que l’ coulement du temps: il lui faut sans cesse s’adapter   la succession des  v nements, se plier   l’impr vu des circonstances pour mieux r aliser le projet qu’elle a con u” (ibid.: 28). In other words, μήτις is precisely that ‘power of appearances’ that Plato so abhorred. This is particularly well expressed in a fragment from the Greek Elegiac poet, Theognis: “Adopt the disposition of the octopus, crafty in its convolutions, which takes on the appearance of whatever rock it has dealings with. At one moment follow along this way, but at the next change the colour of your skin” (Gerber, 1999: 205).

A memorable example of the qualities of μήτις can be found in Thucydides’ (1928: 237) description of Themistocles, the Athenian hero of the Persian Wars. According to

Thucydides, Themistocles, was a disciple of the ‘Sophist’, Mnesiphilus, who taught ‘nothing more than cleverness in politics and practical sagacity’ (ibid.). Themistocles was reputed for:

[...] the insights he manifested, of which he gave repeated proofs. For indeed Themistocles demonstrated the strength of his natural sagacity, and was in the very highest degree worthy of admiration in that respect. For by native insight, not reinforced by earlier or later study [of the occasion for action that had arisen], he was beyond other men, with the briefest deliberation, both a shrewd judge of the immediate present and wise in forecasting what would happen in the most distant future. Moreover, he had the ability to expound to others the enterprises he had in hand, and on those which he had not yet essayed he could yet without fail pass competent judgement; and he could most clearly foresee the issue for better or worse that lay in the still dim future. To sum up all in a word, by force of native sagacity and because of the brief preparation he required, he proved himself the ablest of all men instantly to hit upon the right expedient.

To be sure, Aristotle (1934: 353) excluded from his definition of φρόνησις certain characteristics that are associated with μήτις. He notably distinguished φρόνησις from conjecture (εὐστοχία) and from “quickness of mind [ἀγχίνοια], which is a form of skill in conjecture” (ibid.). He was at pains, however, to distinguish φρόνησις from cleverness (δεινότητα). Aristotle (ibid.: 369) invariably asserted that “Prudence and Cleverness are not the same, but they are similar” and that cleverness “is not identical with Prudence, but Prudence implies it.” The reason is that cleverness “is the capacity for doing the things [...] that conduce to the aim we propose, and so attaining that aim” (ibid.: 367-9). In Aristotle’s view, what distinguishes them is that whereas δεινότητα, or ‘cleverness,’ operates on a pure *Erfolgsethik* (ethic of successful outcome) or *Konsequenzethik* (ethic of consequence), φρόνησις only operates in tandem with moral virtue (ibid.: 373). For Aristotle (ibid.: 367), moral virtue [ἠθικὴν ἀρετή] “assures the rightness of the end we aim at, Prudence [φρόνησις] ensures the rightness of the means we adopt to gain that end.” Here, Aristotle disassociated φρόνησις from the art of legislation, which involves fixing ends, and limited it to the art of politics, or the determining of means.

In other words, φρόνησις is precisely what Max Weber’s (1992: 80) *Verantwortungsethik* (ethic of responsibility) implies: it is an Aristotelian middle ground between a pure *Erfolgsethik* (ethic of successful outcome) and a *Gesinnungsethik* (ethic of conviction) (Sukale, 1997: 39). It is for this reason that those who ‘administer public affairs’ (πολιτεύεσθαι) require a type of φρόνησις that involves knowledge of both general principles and particular facts (Aristotle, 1934: 347). However, when Aristotle asserted that

φρόνησις is concerned with action (πρακτική), he acknowledged that “men who are ignorant of general principles are sometimes more successful in action than others who know them” or that in some matters “men of experience are more successful than theorists” (ibid.: 347). In any case, if φρόνησις is distinguished from conjecture (εὐστοχία) because the latter “operates without conscious calculation, and rapidly” and “execution should be swift” (ibid.: 353), the specific duties of the executive magistracy necessarily require “quickness of mind [ἀγχίνοια], which is a form of skill in conjecture” (ibid.). It is precisely this particular type of ἀρετή, which involves conjecture, quickness of mind and ‘cleverness’, that constitute the ‘very great capacities’ required of the Statesman.

An example of the particular duties of the Statesman is that they “must contrive causes of fear, in order that the citizens may keep guard and not relax their vigilance for the constitution like a watch in the night” (Aristotle, 1932: 423). If the citizenry in general must possess μήτις in the sense of always remaining awake and vigilant, never succumbing to apathy or indifference (Détienne and Vernant, 1974: 37-38), the magistrates have the additional responsibility of keeping the citizens on their guard by ‘making distant dangers seem near’ (Aristotle, 1932: 423). In this, their μήτις requires a certain duplicity or the use of masks to conceal or disguise oneself. Ultimately, the magistrate knows that the danger is not near, but must act in a convincing enough fashion to make the citizenry believe that danger is closer than it actually is. In this regard, Plato (1914: 267a) specifically deprecated Gorgias’ rhetorical ability to “make small things seem great and great things small [267b] by the power of [his] words.” But Aristotle (1932: 423) believed the ability “to discern a growing evil at the commencement is not any ordinary person’s work but needs a statesman.”

In other words, the statesman must, to a certain extent, incarnate a δεμαγωγός (*demagogue*) in the literal sense of the word, that is, a ‘leader of the people’.⁵⁴ I will not bother to attempt to illustrate this particular virtue by citing various sources from different historical periods as it is difficult to find any text other than Machiavelli’s that so explicitly insists on a republican virtue that is so far removed from Platonic or Christian virtue. This is one of those areas of political ideas where one must look more at concrete political deeds of

⁵⁴ Of course, Aristotle used this expression as a derogatory term in the sense of *misleading* the people.

republican Statesmen rather than search political treatise or discourse for traces of their thought.

2.4.2. Local militia

If we have identified the particular virtue that is required of Statesmen, it remains to identify the virtue that is common to all citizens. The tradition of a local militia can be traced at least as far back as Plato's *Laws* (1926a: 357, 387; 1926b: 89) in which he developed a constitution that was to be governed by citizen-soldiers. As Aristotle (1932: 105) remarked, "the whole constitution is intended, it is true, to be neither a democracy nor an oligarchy, but of the form intermediate between them which is termed a [πολιτείαν], for the government is constituted from that class that bears arms." For Aristotle (1926: 163), one of the cardinal virtues is courage, and the courage of citizens is that which "most closely resembles true Courage." This was because such courage "is prompted by virtue, namely the sense of shame, and by the desire for something noble, namely honour, and the wish to avoid the disgrace of being reproached" (ibid.). This Aristotle opposed to the "courage of troops forced into battle by their officers," that are motivated, not by "a sense of shame but fear, and the desire to avoid not disgrace but pain" (ibid.). Aristotle (ibid.: 165) granted that mercenaries were in some ways superior to citizen-soldiers, due to experience in battle, skill in the use of arms and possession of the best arms. He nevertheless thought that they "prove cowards when the danger imposes too great a strain, and when they are at a disadvantage in numbers and equipment; for they are the first to run away, while citizen troops stand their ground and die fighting" (ibid.).

For Aristotle (ibid.: 271), it is notably in a constitutional government where "there naturally grows up a military populace capable of being governed and of governing under a law that distributes the offices among the well-to-do in accordance with merit." Aristotle believed that "it is clear that the heavy-armed soldiery at any rate must be part of the state" (ibid.: 297) and that "it is proper that the government should be drawn only from those who possess heavy armour" (ibid.: 343). While generally against according citizenship to farmers and artisans (ibid.: 577), Aristotle (ibid.: 299) nevertheless evoked the possibility "for the same men to be the soldiers that defend the state in war and the farmers that till the land and the artisans," and indeed recognised that "it often happens for the same men to be both

soldiers and farmers” (ibid.: 297). Aristotle (ibid.: 497) also introduced a theme that was to become classical when he voiced the opinion that the “best common people are the agricultural population, so that it is possible to introduce a democracy [...] where the multitude lives by agriculture or by pasturing cattle.”⁵⁵ The importance of including those who take up arms amongst the citizenry is revealed when Aristotle (1932: 577) commented that, “inasmuch as it is a thing impossible that when a set of men are able to employ force and resist control, these should submit always to the ruled, from this point of view both [the military and deliberative] functions must be assigned to the same people; for those who have the power of arms have the power to decide whether the constitution shall stand or fall.”

As is well known, Machiavelli (1975: 82) thought that “mercenaries and auxiliaries are useless and dangerous, and if any one supports his state by the arms of mercenaries, he will never stand firm or sure, as they are disunited, ambitious, without discipline, faithless, bold amongst friends, cowardly amongst enemies, they have no fear of God, and keep no faith with men.” What mercenaries essentially lacked in Machiavelli’s eyes was patriotism: “The cause of this is that they have no love or other motive to keep them in the field beyond a trifling wage, which is not enough to make them ready to die for you” (ibid.: 83). But more importantly was the *virtù* that military training inculcated in the citizenry. According to Skinner (1990b: 303, note 40), “a leading theme of Book II of Machiavelli’s *Discorsi*” is that the freedom of one’s native land necessitates “a willingness to cultivate the martial virtues, and to place them in the service of our community” (ibid.: 303). For Pocock (2003: 204), this was also a matter of cultivating civic virtue, since “the warrior displays [virtue] as fully as the citizen, and it may be through military discipline that one learns to be a citizen and to display civic virtue.”

Marchamont Nedham articulated a view of England as a republic of citizen-soldiers in classical Machiavellian terms in the early 1650s (Pocock, 2003: 381-382). Concern among English republicans over the control of the militia grew out of the threat of the establishment of a standing army. Harrington saw the latter as being “kept permanently available to a supreme magistrate, like the guards used by ancient tyrants to establish unlawful power”

⁵⁵ Of course, Aristotle’s (1932: 497) motives were completely hollow: “For owing to their not having much property they are busy, so that they cannot often meet in the assembly, while owing to their having the necessaries of life they pass their time attending to their farm work and do not covet their neighbour’s goods, but find more pleasure in working than in taking part in politics and holding office, where the profits to be made are not large; for the mass of mankind are more covetous of gain than of honour.”

(ibid.: 411). Not only was the House of Commons threatened with corruption due to the King's power of appointment, but it was threatened with being physically subjugated by an army that owed its allegiance to the King and not to Parliament. This scene more or less repeated itself in the Thirteen Colonies. For the Usonian revolutionaries, the corrupting influence of power raised concerns with standing armies because "the absolute danger to liberty lay in the absolute supremacy of 'a veteran army' – in making 'the civil subordinate to the military,' as Jefferson put it in 1774, 'instead of subjecting the military to civil powers'" (Bailyn, 1992: 61). Like Machiavelli, the revolutionaries "had a vivid sense of what such armies were: gangs of restless mercenaries, responsible only to the whims of the rulers who paid them, capable of destroying all right, law, and liberty that stood in their way" (Bailyn, 1992: 62). The worry was that the executive branch would have the means of physically threatening the legislative branch, thereby corrupting it and throwing the constitution out of balance.

In Lower Canada, a provincial militia was first "established under the French regime, when war was a central feature of colonial life, [then] was revived in a modified form by the British in the late eighteenth century" (Greer, 1993: 100). The Legislative Assembly passed the *Militia Act, 1830*, "which required that officers must live in the territory under their command and, for the first time, specified a property qualification for militia officers" (ibid.: 105-106).

2.4.3. The Role of Property

The importance of property in republican theory was not to assure a plutocracy where only a wealthy *bourgeoisie* had access to political power. On the contrary, it was believed that citizens who were economically independent were more likely to be politically independent. Property owners were viewed as being less likely to be corrupted, whether through appointment to political offices or through bribes. More importantly was that, much like military training, it encouraged a certain simplicity of mores, and thereby helped maintain the virtue of the citizenry. In other words, property was not simply viewed as a commodity, but was bound up with political ideas concerning active citizenship. For this reason, republicans were hesitant to lean toward more democratic regimes where there was "no property-qualification at all or a quite small one" for citizenship and no property

qualification to hold office (Aristotle, 1932: 321). Here, Nelson's (2004) distinction between a 'Roman' or oligarchic republicanism and a 'Greek' or democratic republicanism is entirely relevant. Whereas the former used property requirements to restrict access to political rights, the latter endeavoured to redistribute property as a means of widening the franchise without compromising the principle.

We briefly touched on the question of property ownership and political rights above, notably when it came to the Senate, Legislative Council or Upper House. In what he believed to be the 'best constitution', Aristotle (1932: 583) insisted that "the land ought to be owned by those who possess arms and those who share the rights of the constitutions," that is, the citizen-soldiers. Aristotle (1932: 141) notably cited the case of certain Ephors in Sparta "who owing to their poverty used to be easily bought" and "were corrupted with money." According to Pocock (2003: 463), one of the English contributions to republican thought was property as a material foundation of virtue. Because "the function of property was to affirm and maintain the reality of personal autonomy, liberty, and virtue, it must if possible display a reality (one is tempted to say a reality) capable of spanning the generations and permitting the living to succeed the dead in a real and natural order. Inheritance, therefore, appeared more than ever before the mode of economic transmission proper to a society's existence in time" (ibid.). It was notably Harrington who introduced the notion of corruption as a connexion between the distribution of political authority and property (ibid.: 387) and therefore between the bearing of arms and freehold property. Having a nondependent tenure, a freeholder was no one's vassal, and was not therefore in a state of dependence. In other words, property was not valued as an economic good for its commercial value on the free market, but as a political good that guaranteed the economic independence of citizens. This helped preserve their virtue by acting as a shield against 'corruption', which is defined as seeking public office out of private interest and gain rather than to serve the common good.

As one could imagine, this discourse was carried over into the thirteen colonies in North America (Pocock, 2003: 534). For example, Noah Webster put forward that "property is the real basis of power" and for this reason, "a general and tolerably equal distribution of landed property is the whole basis of national freedom" (qtd. in Bailyn, 1992: 373). While leaders of the Revolution had considered using the force of law to break up large estates in order to

prevent the concentration of power, they were reluctant to do so (Nelson, 2004: 213). One of the ways of ensuring that large estates would be gradually broken up and redistributed was by abolishing inheritance laws such as entail and primogeniture (Wood, 1969: 410; Nelson, 2004: 213). In Upper Canada, the radical Reformers also put forward “the demand for the abolition of primogeniture,” a solution that evidently “owed much to the American background,” although the Reformers could have also drawn their “arguments from British radical theories and from American practice” (Craig, 1948: 341).

While it is true that the *Patriotes* “saw substantial property as an essential guarantee of the independence of the individuals holding public office,” Greer (1993: 106) was mistaken to attribute this to “the liberal philosophy subscribed to by the middle-class politicians of the Patriot party.” It was a republican philosophy, not a liberal one. As Greer (*ibid.*: 127) himself noted, property “was a requirement of active political life, as far as they were concerned, and their reforming legislation always included property qualifications as part and parcel of any extension of electoralism.” Once again, this “linkage of property and active citizenship was not simply political conservatism; one implication that could be (and was) drawn from it was that widespread property ownership was essential to the health of the body politic” (*ibid.*). Leading up to the Rebellion in Lower Canada, mass meetings in cities and rural districts were even billed as ‘an assembly of freeholders’ (*ibid.*: 141).

This completes the identification of the constellation of key conventions that are particular to democratic rhetorical republicanism. There are three things to retain from this survey of republican conventions. First of all, the conventions of liberty, the rule of law, the mixed regime and private property are in no way specific to liberalism and are therefore not necessarily an indication of the presence of liberal doctrine. Second of all, as the doctrine of the mixed regime and balanced constitution indicates, republicanism is in no way incompatible with the monarchical principle and the presence of the latter is not necessarily an indication of a royalist and conservative political doctrine. Finally, the notion of ‘virtue’ in rhetorical republicanism deals with the gritty reality of the phenomenological reality and is therefore highly pragmatic. It should not be confused with Platonic or Christian notions of ‘virtue’, which deal with the lofty, noumenological world and are necessarily much more ‘theoretical’ and abstract in nature. This model of republicanism will provide us with a

landmark that will allow us to identify republican conventions in the 'minor texts' of the political discourse in the Red River Settlement.

3. Political Struggles and Republican Conventions: 1835-1869

With a model of democratic rhetorical republicanism now in place, it is possible to apply the third component of Skinner's approach, that of surveying the conventions that were used in political discourse in the Red River Settlement during the thirty-five year period between 1835 and 1869 in order to determine which ones would have been available to the leaders of the Resistance in 1869-1870. In accordance with the second component, I will also begin reconstructing the "problematic political activity or 'relevant characteristics' of the society that the author addresses and to which the text is a response" (Tully, 1988: 10). In order to understand what an author was doing "in writing a text in relation to other available texts which make up the ideological context" (ibid.: 8) in accordance with the first component, it is necessary to "situate the text in its linguistic or ideological context: the collection of texts written or used in the same period, addressed to the same or similar issues and sharing a number of conventions" (ibid.: 9). For this reason, the first section begins with the legal text of the HBC *Charter*. The Métis' struggle with the HBC for their civil rights in the form of free trade and the right to contract in 1846 and their struggle for political rights that culminated in the Sayer Trial of 1849 were a direct reaction to both the fur-trade monopoly and the structure of governance that were contained in the *Charter*. I will end this section with an analysis of the 'list of rights' that was produced by the Métis.

Following these events, the focus will switch in the second half of the chapter to the events in and following the watershed year of 1857. What is particular about this period is that it was not the Métis who would contest the legitimacy of the Governor and Council, but

the Half-Breeds along with mainly immigrants from Canada-West. For this reason, the emphasis of the second section is less on the Métis themselves than on the political movements of the Canadians and Half-Breeds. In the case of Red River, there were several ‘organic intellectuals’ who played the role of ‘discursive transmitters’ and introduced republican vocabulary into the Settlement. Individuals like the Anglican Reverend Corbett and the Half-Breed James Ross who agitated for Crown Colony status used the language of English ‘country’ opposition in opposing the annexationist option and the continued governance of the Governor and Council of Assiniboia. There are two important aspects of political discourse during this period that I will emphasise in the second half of the chapter. First of all, in terms of the fourth component of Skinner’s approach concerning the manipulation of conventions, the Half-Breeds largely reinforced republican conventions that the Métis had themselves used previously, although they were probably imported for the most part from Canada-West and England. Second, in terms of the third component, the use of such conventions established a benchmark that allows us to measure the ideological moves of the Métis during the Resistance.

3.1. *The Charter of the Company of Adventurers of England*

As a Royal *Charter*, the rights and privileges of the ‘Company of Adventurers of England trading into Hudson’s Bay’ (CAE) flowed directly from the Crown, or the executive branch of the State, not from Parliament. It first set up the company as a ‘Body Corporate and Politique’ that is a legal person that enjoys civil rights. The territory to which the *Charter* applied was described as “all those Seas, Streights, Bays, Rivers, Lakes, Creeks, and Sounds, in whatsoever Latitude they shall be, that lie within the entrance of the Streights commonly called Hudson’s Streights, together with all the Lands, Countries and Territories, upon the Coasts and Confines of the Seas, Streights, Bays, Lakes, Rivers, Creeks and Sounds, aforesaid” (HBC, 1963: 11). This area was “henceforth reckoned and reputed as one of our Plantacions or Colonyes in America called *Rupert’s Land*” (ibid.).⁵⁶

⁵⁶ This vague description of the boundaries of the *Charter* could be interpreted as the Hudson watershed, which would fix the southern limit of Rupert’s Land somewhere north of the District of Assiniboia, or as the Hudson drainage basin, in which case the southern limit would be located south of the 49th parallel (McNeil, 1982: 8). In the former case, the CAE could not claim to own or to have jurisdiction over the area that was later granted to Lord Selkirk and became the District of Assiniboia. In either case, the territorial claims of Charles II were in direct conflict with the *Charte de la Compagnie de Cent-Associés*, better known as the *Compagnie de la*

The CAE *Charter* specified that “the sole Trade and Commerce” be granted to the Company in the territory named Rupert’s Land. In addition, it extended this monopoly to “the whole and entire Trade and Traffick to and from all Havens, Bays, Creeks, Rivers, Lakes and Seas, into which they shall find Entrance or Passage by Water or Land out of” Rupert’s Land. Furthermore, the CAE’s monopoly was even to apply “to and with all the Natives and People, inhabiting, or which shall inhabit within the Territories, Limits and Places aforesaid; and to and with all other Nations inhabiting any of the Coasts adjacent to the said Territories, Limits and Places” (HBC, 1963: 14). This clause only applied to trade between British subjects, between the latter and foreign subjects and between British subjects and Indigenous peoples, but did not prohibit trade between Indigenous peoples. This would later bring the CAE in conflict with the Métis, whom it treated as British subjects, but who claimed the right to trade as an Indigenous people. In complete disregard for Aboriginal title, the *Charter* further claimed to make the CAE “the true and absolute Lords and Proprietors of the same Territory lymittes and places aforesaid” (ibid.: 12). In other words, the Crown granted the Company title in fee simple to the entire area. Again, this would later bring the Company into conflict with Métis land claims.

In terms of corporate structure, the *Charter* set out that the “supreme control of Hudson’s Bay affairs is vested, under the charter,” in a Board of Directors composed of the “Governor [‘Governor of the HBC’], Deputy Governor, and Committee of five Directors, all annually chosen by the stockholders at a general meeting held each November” (Hargrave, 1977: 83). Before 1821, “the various districts and posts had been ruled by numerous petty officers, subject to no efficient control, and practically answerable to none for abuse of power” (ibid.: 82). It is important to note that the *Charter* granted the company civil and criminal jurisdiction within the forts and its inhabitants, and that these officers therefore exercised powers of government over their employees. Following the merger with the NWC in 1821, the Board of the CAE delegated “their authority to an official resident in their American possessions, called the Governor, or Governor-in-Chief, of Rupert’s Land [‘Governor of Rupert’s Land’], who acts as their representative. His commission extends over all their colonial possessions, and his tenure of office is unlimited, as regards time” (ibid.). In effect,

Nouvelle-France, that King Louis XIII of France had previously granted in 1627 (Havard et Vidal, 2003: 87) and included a fur-trade monopoly extending from Florida to the North Pole. French claims were to be a source of territorial conflict long after the fall of New France and would only end with the *Manitoba Act, 1870*.

Sir George Simpson was to occupy this post for nearly forty years, from 1821 until his death in 1860.

The Governor of Rupert's Land acts as president or chairman of the 'Council for the Northern Department of Rupert's Land', which is primarily composed of the chief factors (ibid.: 83-84). The chief traders, "when they can arrange to be present, are requested to sit in the council which is held with closed doors, and, when so invited, the traders are permitted to debate and vote equally with the factors" (ibid.: 84). In terms of authority, "the Governor [of Rupert's Land] is supreme, except during the session of his council, which is held once a year, and continues its formal sittings for two or three days." This Council "assumes general authority over all the other departments", that is the Northern, Southern, Montréal and Western departments. A council is equally held every year in the Northern Department, which includes the District of Assiniboia, with the Governor-in-chief invariably present.

3.1.1. The *Charter's* Provisions for Civil Government

Like other seventeenth-century charters for plantation colonies, the *Charter* granted legislative, executive and judiciary powers to the Company. Although Stubbs (1967: 15) believed the HBC "had not power to legislate," the *Charter* in fact provided that "it shall and may be lawful to and for" the Governor and Committee "to make, ordain, and constitute, such, and so many reasonable *Laws, Constitutions, Orders and Ordinances*, as to them [...] shall seem necessary and convenient *for the good Government [...] of all Governors of Colonies, Forts and Plantations*." (HBC, 1963: 12). It further allowed, "for the better Advancement and Continuance of [...] the same *Laws, Constitutions, Orders and Ordinances* so made", the Governor and Company "to put in Use and execute [them] accordingly." To these legislative and executive functions were also added judicial powers. The *Charter* further provided "that the said Governor and Company [...] shall and may lawfully impose, ordain, limit and provide, such Pains, Penalties and Punishments upon all Offenders, contrary to such *Laws, Constitutions, Orders and Ordinances*, [...] shall seem necessary, requisite, or convenient for the Observation of the same" (ibid.). The CAE *Charter* stipulated that all colonies in Rupert's Land "shall be immediately and from henceforth, under the Power and Command of the said Governor and Company" (ibid.). Although there were no colonies in Rupert's Land in 1670, insofar as the Métis were, or became, British

subjects, they were subject to the *Charter* and therefore to the CAE's jurisdiction. However, as former French subjects, they may have been outside the purview of the Company's jurisdiction, as the *Charter* explicitly excluded any area "which are not now actually possessed [...] by the Subjects of any other Christian Prince or State" (ibid.: 4).

The *Charter* also provided for the establishment of colonies in Rupert's Land: "it shall and may be lawful to and for the said Governor and Company [...] to erect and build such Castles, Fortifications, Forts, Garrisons, Colonies or Plantations, Towns or Villages, in any Parts or Places within the Limits and Bounds granted before in these Presents, unto the said Governor and Company, as they in their Discretion shall think fit and requisite" (ibid.: 19). The *Charter* also provided for the Company "to transport and carry over such Number of Men being willing thereunto, or not prohibited, as they shall think fit" (ibid.). More importantly, the *Charter* granted the CAE the right "to govern them in such legal and reasonable Manner as the said Governor and Company shall think best, and to inflict Punishment for Misdemeanours, or impose such Fines upon them for Breach of their Orders, as in these Presents are formerly expressed" (ibid.).

The *Charter* also granted the CAE the "Liberty, full Power and Authority, to appoint and establish Governors, and all other Officers to govern" such colonies (ibid.: 18). Furthermore, the Governor and his Council of such colonies were granted "Power to judge *all* Persons [...] *that shall live under* [emphasis added]" the CAE. The extent and limit of such judicial powers were made clear when the *Charter* mentioned that it included "all Causes, whether Civil or Criminal, according to the Laws of this Kingdom" (ibid.). The power to "execute Justice accordingly" included the coercive power of the State. One of the legal problems with the *Charter*, presuming it was valid, was that it did not explicitly grant legislative power to the Governor and Council of colonies, but rather to the board of the Company, and it is not certain, due to the principle of *delegata potestas non potest delegari*⁵⁷ that such powers could legally be subdelegated.⁵⁸ In any case, it is important, then, to keep in mind the distinction between the Governor of the CAE/HBC who sits on the board of the company,

⁵⁷ 'A delegated authority cannot be delegated'.

⁵⁸ Governor Simpson even denied Legislative power was delegated to the CAE by the Crown rather than Parliament. A century later, Lord Mansfield confirmed the Crown held a prerogative power of legislation in conquered colonies in *Campbell v. Hall* (1774) 1 Cowp. 204, 98 E.R. 1045. However, "the prerogative power of legislation terminated as soon as a conquered colony was granted its own legislative assembly" (Hogg, 2002: 35). Again, the question of whether the Red River valley was part of a 'conquered colony' depends on whether it was within the boundaries of Rupert's Land or those of New France.

the Governor of Rupert's Land who represents the board and the stockholders in Rupert's Land, and the Governor of Assiniboia, who is the executive officer of the government of the District of Assiniboia.

3.1.2. Civil Government of the District of Assiniboia

Insofar as its *Charter* was valid, the CAE seemed to have a solid legal foundation for establishing a settlement in Rupert's Land. When Thomas Douglas, fifth earl of Selkirk became a shareholder of the Company, he decided to take advantage of these clauses in order to pursue his philanthropic enterprise of settling evicted Scots around Fort Gibraltar at the forks of the Assiniboine and Red rivers in 1811. In order to realise this project, the CAE conveyed 116,000 square miles of real estate to Selkirk in fee simple (Oliver, 1914: 154).⁵⁹ While the Company no longer had title to the land, it still held the power to govern the settlers who were to colonise it (Gibson, 1995: 256). For this reason, the Governor of the Company granted Miles Macdonell, the same man that Selkirk appointed to manage his grant (Oliver, 1914: 175), a commission as Governor of the territory covered by Selkirk's grant and "thereby clothed [him] with the Company's legislative and judicial powers" (Gibson, 1995: 256). Interestingly, Selkirk also obtained for Miles Macdonell a commission from Lower Canada as a magistrate under the *Canada Jurisdiction Act, 1803* (ibid.: 257), despite the fact that he wrote to Macdonell on 13 June 1813 that Rupert's Land was outside the jurisdiction of the *Act* (Oliver, 1914: 178). In July 1814, Governor Macdonell appointed a Council of five members, one of whom, John Spencer, was also appointed sheriff (ibid.: 259). The *Charter's* judicial powers were never exercised under Selkirk and this arrangement was to remain in place after Selkirk's death on 20 April 1820.

When Andrew Bulger became governor in May 1822, he received instructions that "left no doubt that henceforth both legislative and judicial authority were to reside in the governor and his council" (Gibson, 1995: 265). The instructions also appointed a new sheriff and allowed the Governor to "enrol and arm such members of the Company's servants and other male inhabitants of the ages from 18 to 45" as he deemed expedient (Oliver, 1914: 219, 221-

⁵⁹ Although Rupert's Land was explicitly excluded from the *Royal Proclamation, 1763*, the practice and principle of extinguishing Indian title was not restricted to areas covered by the *Proclamation*. It is questionable whether this grant was legal at the time it was made. Selkirk would later sign a treaty with the local Amerindian tribes, but it is unclear in what capacity he claimed to do so.

3). Bulger, however, never acted on these instructions and it was left to his successor, Robert Pelly, to put into place a proper police force. In October 1823, “Pelly established a force consisting of High Constable McKenzie, two bailiffs and twenty ‘regular’ constables, all of whom were paid on a part-time basis, assisted by about fifty ‘special’ constables, who were to serve gratuitously. In an emergency, all other settlers could also be enlisted, since their land contracts with the Selkirk estate bound them to assist in maintaining law and order” (Gibson, 1995: 267; Oliver, 1914: 257-8).

As ever, the problem with the police force was paying for it. Initially, the Selkirk estate paid for this force and in 1835 the Company began contributing £100 per annum (Oliver, 1914: 269). The Governor of Rupert’s Land, George Simpson, considered charging the settlers for the police force (ibid.: 257-8). However, no form of taxation was implemented for several years (Gibson, 1995: 267). To strengthen its monopoly on legitimate violence, the Council appointed Cuthbert Grant as ‘Warden of the Plains’ with the mandate to prevent ‘the illicit Trade in Furs’ in the Red River District (Macleod and Morton, 1974: 101). In effect, according to Gibson (1995: 270), the occasions on which Grant was “employed in a constabulary capacity [...] was chiefly to enforce violations of the Company’s fur-trading monopoly.” But if it was a classical case of cooptation, as Simpson admitted that the office and annual salary of £200 was “a sinecure afforded [...] entirely from political motives” (Simpson qtd. in Gibson, 1995: 270), Macleod and Morton (1974: 101) better realised than Gibson the symbolic capital attached to such a position: “Grant, always influential among his people, now became a figure of dignity.” Grant was the first, and for a long time the only, Half-Breed to sit on the Council.

Until 1835, there were never more than seven members of the Council, including the Governor (Oliver, 1914: 35). On 12 February of that year, and therefore prior to the surrender by the Selkirk family of its title to the HBC on 4 May 1836 (HBC, 1963: 231), Governor Simpson convened the Council⁶⁰ in order to adopt a constitution and pass laws to

⁶⁰ When the Governor of Rupert’s Land attends meetings of the Council of Assiniboia, he takes precedence over the latter and acts as president of the Council (Hargrave, 1977: 86). However, this was not normally problematic as, prior to 1848, the position of Governor of Assiniboia and of Rupert’s Land and was held by the same person who held the office of Governor of Rupert’s Land. Between 1848 and 1864, the position of Governor of Assiniboia was held by William Caldwell (1848-1855), Frank Godshall Johnson (1855-1858) and William Mactavish (1858-1869). Both the Governor and Councillors of Assiniboia were appointed by commissions from the HBC in London, the latter upon recommendation of the Governor of Assiniboia. There being no fixed sessions, the Governor had an absolute prerogative to convene the Council, which took place in

enlarge the legislative council in order to make it more representative and to organise a judicial system and a police force (Oliver, 1914: 266-274; Ross, 1957: 174-180; Trémaudan, 1984: 127; Stanley 1961: 16-17). The boundaries of the area called ‘Assiniboia’ that was to be governed by the Council and to which such laws were to apply were substantially altered from those of the initial Selkirk grant. A Resolution of 13 March 1839 specified that the boundaries of the District were to be “coextensive with such portions of the Territory granted to the late Thomas Douglas, fifth Earl of Selkirk [...], as is now within the Dominions of Her Britannic Majesty” (Oliver, 1914: 32). Two years later, however, when regulations were adopted on 25 June 1841, it was specified that the ‘Municipal District of Assiniboia’ (Oliver, 1914: 32) was limited to an area that “extended in all directions fifty miles from the forks of the Red River and the Assiniboine” (Oliver, 1914: 296).⁶¹

In terms of the judicial branch, the District of Assiniboia was initially divided into four judicial districts with an appointed magistrate or justice of the peace who were paid £5 per annum (Oliver, 1914: 93). These ‘petty courts’, which only dealt with minor criminal charges and civil claims involving less than 40 shillings, sat every three months. More serious cases and appeals were dealt with by the General Quarterly Court, which was presided by the Governor. In June 1837, the system was again modified. The number of judicial districts was reduced to three while the number of justices of the peace was increased to two per district, one of whom was the senior magistrate and carried the title of ‘president’. Three justices of the peace, one of whom evidently had to come from outside the district, heard sessions of the Petty Courts. The composition of the General Quarterly Court was also modified by adding at least four magistrates to the Governor or the Company’s principal officer in Assiniboia. While the salary remained at £5, there was an effort to ‘professionalise’ the office of magistrates by providing each judicial district with a copy of Burn’s *Justice of the Peace* (Oliver, 1914: 277-81).

The presence of the Governor on the General Quarterly Court, while in keeping with the *Charter*’s provisions, did not respect the conditions of the principle of the independence of

the courtroom at Fort Garry and was held behind closed doors. A clerk would however take minutes of the session and make them available to the general public.

⁶¹ This was partly due to the Selkirk Treaty, which had only extinguished Indian title of the Saulteaux and Cree in an area of six miles around Fort Douglas (Morris, 1991: 299) as well as a two-mile strip on each side of the Red and Assiniboine Rivers for a distance of roughly sixty miles from the forks, and partly due to the distance to the 49th parallel, a distance of fifty miles.

the judiciary that had been established in England since the *Settlement Act, 1701*. There was some effort to correct this when, in 1839, the Governor and Committee of the HBC in London created the office of the ‘Recorder of Rupert’s Land. The first legally trained judge in the Settlement, Adam Thom, replaced the Governor on the bench of the General Quarterly Court (Stubbs, 1967: 5). While the judiciary became distinct from the executive with the appointment of a Recorder, Thom nevertheless sat as a member of the Council and as Councillor wrote up the very legislation that he was himself to interpret as judge (Oliver, 1914: 295-310). While a certain degree of judicial independence was provided in the form of salaries for the justices of peace and the recorder, such salaries were paid by the HBC and were prone to suspension for political motives. Furthermore, the Governor subsequently continued to directly exercise the Crown’s role as the ‘fountain of justice’ and sat as arbitrator for certain cases. For example, after Thom’s demotion to court clerk, Governor Caldwell served as chief judge (Gibson, 1995: 280). In addition, Francis Johnson, after being commissioned as Recorder on 3 February 1854 (Stubbs, 1967: 53), was also named assistant governor of Assiniboia on 19 July 1855 and then appointed Governor of Assiniboia on 6 November 1855 and held both positions until his return to his law practice in Montréal in 1858 (ibid.).

3.2. From Economic ‘Living Tools’ to Political ‘Quasi-Citizens’

As Kalyvas (2008: 45) has observed, “resistance and revolt are not natural reactions.” If economic exploitation “can lead to distress and dissatisfaction,” such a “natural, instinctual feeling of frustration” must also “be experienced as illegitimate and unjust. It must be viewed, in other words, as undeserved, imposed by a particular institutional and political order that has been created to benefit certain social groups to the detriment of others” (ibid.). What is required to make the transition from mere frustration to concerted political action are “value systems that endow individuals with the ability to translate the mere fact of their social subordination into political terms as unjust and, thus, as something that needs to be remedied by human action” (ibid.). As a value system, republicanism provided a vocabulary that made possible this “shift from an amorphous, inarticulate feeling of distress to concerted political action” (ibid.), in the period from the end of the Fur Trade War in 1818 to the Sayer trial in 1849.

In the introduction of this thesis, I briefly touched on how the competition between the CAE and the NWC in the early nineteenth century led to a veritable feud or private war that resulted in Commissioner William Bachelor Coltman's *Report* that advised merging the two companies. This was effectively carried out in 1821 (W. Morton, 1967: 59). However, no sooner had the dust of the Fur Trade War settled, than the issue of trade was to be the source of political strife in the Settlement once again. This time competition came from the American Fur Company (AFC), whose activities were centred in the Mississippi Valley (Pritchett, 1942: 239). Even before the merger, Coltman had already expressed concern to Lieutenant-Governor Sherbrooke that the presence of the Métis in Pembina south of the border might allow the U.S. to capture the fur trade (MacLeod and Morton, 1973: 71).

Following the War of Independence, Great Britain recognised the sovereignty of the U.S. over the region south and west of the Great Lakes in the *Treaty of Paris, 1783*. British garrisons remained stationed in forts that were key to the NWC's trade routes. Although Great Britain was supposed to withdraw them according to the terms of the *Jay Treaty, 1794*, it did not do so until the end of the War of 1812. In the meantime, the U.S. had also purchased Louisiana in 1803, thereby capturing the Mississippi and Missouri fur trade. Following the War of 1812, Congress passed a law that barred alien traders from the U.S. in 1816 and the boundary between British North America and the U.S. was set in 1818. This allowed the AFC to squeeze the NWC out of the Old Northwest at the very moment it was struggling with the CAE and thereby contribute to its demise (Pritchett, 1942: 240-244). In doing so, however, the AFC took over the 'existing machinery' of the NWC by adopting "the policy of retaining the old *engagés* and *voyageurs* of the Northwest Company," such as Joseph Rolette, père, Joseph Renville, Jean-Baptiste Faribault, Alexis Bailly, Louis Provençalle and Joseph Laframboise (ibid.: 244). The AFC basically followed the NWC's strategy of hiring *Canadien* voyageurs. For this reason, what lay to the south in the *imaginaire* Métis was not so much United States, but 'la Franco-Amérique métisse' (Morrisset, 2008: 199).

The threat of competition prompted George Simpson, Governor of Rupert's Land, to write to Andrew Colville on 8 September 1821 that he conceived "it indispensably necessary for the [colony's] welfare that a Code of Laws should be made, Magistrates appointed, constables sworn in and a small Military Establishment provided to give effect to the Civil

Authorities” (A.S. Morton, 1973: 649). When Andrew Bulger (1789-1858) became governor *locum tenens* of Assiniboia from 28 June 1822, a position he held until August 1823, he was aware of the significance of the AFC post at Lac Traverse (*ibid.*: 658). While Simpson found the Settlement tranquil and orderly when he visited it in 1832, he nevertheless realised that there was anxiety about markets for surplus produce (A.S. Morton, 1973: 641). Whereas the supply of pemmican had previously been insufficient, the increased number of plains hunters now provided a supply that outstripped the demand. Here, according to Alexander Ross, “was the point at which all the subsequent difficulties commenced” (Ross, 1957: 166). On the one hand, the HBC could not itself provide a sufficient demand for the surplus produce of the Métis, while on the other hand it attempted to enforce its monopoly by preventing them from selling to the AFC.

It was in this context of limited economic opportunities for a growing population, that the “first hostile demonstration of the half-breeds” took place in 1834 (*ibid.*: 167). It began when the HBC clerk in charge of Upper Fort Garry, Thomas Simpson, struck a Métis tripman, Antoine Larocque, over the head with an iron poker (Ens, 1996: 54). The Métis then “met in council, and in conclusion demanded that Mr. [Thomas] Simpson should be forthwith delivered up to them” (Ross, 1957: 168). What is interesting is both the dimension of the protest – “the whole half-breed race of French extraction were in motion, and a buzz of anxiety pervaded the settlement” (*ibid.*: 168) – and the demonstrated ability of the Métis to organise and make collective decisions. According to Ens (1996: 53), when the Métis “approached [the Half-Breeds] to join in their resistance following the Larocque incident, they readily joined the cause.” The Métis apparently wished to deal with Thomas Simpson “according to their law of retaliation” and, upon the refusal of the Governor George Simpson to give Thomas Simpson up, “threatened to scalp the governor and drive all the whites out of the country” (Ens, 1996: 54-5). It was on this occasion that Governor George Simpson called on Reverend Georges-Antoine Belcourt (1803-1874) to intervene (Reardon, 1955: 43).

As Ens (1996: 55) astutely observed, “the uprising acted as a catalyst for change to local government.” In effect, it was at this time that Governor Simpson suddenly decided to reinforce the government machinery of the HBC government in Assiniboia, notably in the form of courts and a police force. The Governor justified the changes for the following reasons:

The population of this colony is become so great, amounting to about 5,000 souls, that the personal influence of the Governor, and the little more than nominal support afforded by the police, which, together with the good feeling of the people, have heretofore been its principal safeguard, are no longer sufficient to maintain the tranquillity and good government of the settlement; so that although rights of property have of late been frequently invaded and other serious offences have been committed, I am concerned to say, we were under the necessity of allowing them to pass unnoticed, because we have not the means at command of enforcing obedience and due respect, according to the existing order of things.

Under such circumstances, it must be evident to one and all of you, that it is quite impossible society can hold together; that the time is at length arrived when it becomes necessary to put that administration of justice on a more firm and regular footing than heretofore, and that immediate steps ought to be taken to guard against dangers from abroad or difficulties at home, for the maintenance of good order and tranquillity, and for the security and protection of lives and property (Oliver, 1914: 267).

The Governor was explicit about the reasons behind the import/export duty of 7.5 percent adopted at this same meeting: “In order to raise funds for defraying such expenses as it may be found necessary to incur towards the maintenance of tranquillity and enforcing due respect and obedience to the laws, rules and regulations” (ibid.). As Pritchett (1941: 253-4) put it, “public freedom was sacrificed for private gain” and the “inhabitants of Red River were to have the privilege of financing a system of monopoly directed against themselves.” This was explicitly stated in the minutes of the meeting. It was resolved that the “Volunteer Corps shall amount to 60 Officers and Privates [...] whose pay amounting to £400 p. annum shall be defrayed from the Revenue arising from Imports and Exports” (Oliver, 1914: 269). In other words, the main purpose of a tax, which was essentially to be burdened by Métis and Half-Breed freighters, was to put into place an apparatus of physical violence that would enable the Company to enforce both its monopoly and the levying of the tax itself against the freighters themselves.

The company was essentially attempting to put into place what Walter Benjamin (1965: 40) termed *rechtserhaltende Gewalt* – violence to uphold the law – in an attempt to obtain Weber’s ‘Monopol legitimer physischer Gewaltsamkeit’. The problem is perhaps as old as political philosophy itself. As Aristotle (1932: 261) stated when he dwelled on the issue:

And there is the difficulty also about royal power: ought the man who is to reign as king to have an armed force about him, by means of which he will have power to compel those who may be unwilling to obey, or if not, how is it possible for him to administer his office? For even if he were a law-abiding sovereign and never acted according to his own will against the law, nevertheless it would be essential for him to have power behind him whereby to safeguard the laws.

Ross (1957: 180) acknowledged that the 7.5 percent import/export duty “was aimed against the petty traders, and, in consequence, unpopular.” It is little wonder that a few months later, according to Ross (ibid.: 169), “another physical demonstration took place at the gates of Fort Garry.” If Father Belcourt had convinced the crowd to disperse in 1834 (Reardon, 1951: 77), on this occasion he may have played a role in canalising the frustration of the Métis by helping them articulate specific claims and encouraging them to exploit their right of petition in order to do so. In their petition, the Métis protested about the import duty on goods from the United States (ibid.) as well as “about the cost of milling their wheat at the colony mills, and demanded more secure land titles, better prices for pemmican and a market for their wheat” (Ens, 1996: 55). While Ens (1996: 55) remarked that Governor Christie did not give in to any of their demands, the London Committee did order the Council to lower the duty to five percent the following year, then to four percent the year after (W.L. Morton, 1967: 74).

It is worth noting that the aforementioned Alexander Ross had previously been employed with the both the Pacific Fur Company and the North-West Company before the latter was merged with the HBC in 1821. He arrived in the Settlement in 1825 and was appointed sheriff and Councillor in 1835. As Red River’s first historian, it is worth quoting at length the comments of Ross on the expansion of the Council.

Although the councillors thus appointed were undoubtedly men of influence in the settlement, yet their influence being all on one side, generally speaking, either sinecurists or paid servants of the Company, they did not carry the public feeling with them, consequently were not, perhaps, the fittest persons, all things considered, to legislate for the colony. Professional men, and old fur-traders, had but little experience in colonial affairs. The people knew this, and knowing it, they never placed that confidence in the council that they would have done had its members been taken from all classes, and not exclusively from the side of ruling power.

The constitution and workings of this council provoked the first desire of the people for representative government; and although we do not altogether approve of such a system, nor think it is best in the present state of the colony, yet it may be forced on the people as the best possible, by foolish and oppressive acts. To guard against such, the sooner the people have a share in their own affairs the better; for to repeat the oft-quoted political maxim, *it is only fair that those who have to obey the laws should have a voice in making them*. It is said, indeed, that *a man who contributes, by this vote, to the passing of a law, has himself made the law; and in obeying it, obeys himself*. Whether or not this is a mere play on words, it is certainly fair play; and if order requires that people should ask no more, they will of a certainty be contented with no less. Who is it that does not know, that laws and equitable justice, like men and money, are the elements of a country’s strength – that strength on

which *constitutional liberty* depends; whereas the contrary is the utter prostration of *political freedom* and *moral independence* (Ross, 1957: 176-7. Emphasis added).

What is important about Ross' observations is the language he used, which bears witness to the "ideas and conceptual vocabularies which were available" (Pocock, 2003: 3) in the Settlement some time before the Resistance. In the first place, Ross noted that the Councillors were often in a position of dependence relative to the HBC and tended to legislate in favour of the latter's particular interests rather than with an eye to the common good. The upshot of this was that the people could not entirely place their trust in laws that they had not made themselves. Ross spoke of political participation in almost Rousseauian terms, expressing it in terms of 'constitutional liberty' and 'political freedom', or what can easily be termed 'positive liberty' or even *la liberté des anciens*.

The relations between the Métis and the Council soured further still when Adam Thom (1802-1890) was appointed Recorder of Rupert's Land in 1839. Prior to his appointment, Thom had been an outspoken critic of the *Parti Canadien* and the *Parti Patriote* in Lower Canada. When 750 arrests were made following the Rebellion in 1837, Thom, who was then editor of the *Montreal Herald*, "wrote violent editorials demanding the death penalty for every one of them" (Stubbs, 1967: 52). According to Arthur Lower, he was one of the "most reactionary Tories, a man unrestrained in his hate and contempt for French Canadians" (qtd. in Stubbs, 1967: 32). When Lord Durham arrived in Canada, he appointed Thom as one of the assistant commissioners of enquiry into the municipal institutions of Lower Canada" (Stubbs, 1967: 7). Then, when "Lord Durham returned to England in late 1838, he took Thom with him as one of his secretaries" (ibid.). According to Lower, it was Thom who persuaded Durham that "the greatest kindness to [the French Canadians] would be to initiate them into the blessings of English civilisation by gradually making them into Englishmen" (qtd. in ibid.: 32). It was during this stay in England that Thom first met Sir George Simpson, Governor-in-Chief of the HBC and was offered the position of Recorder of Rupert's Land for £700 a year (ibid.: 8).

Shortly after Thom's appointment, the issue of trade competition from the AFC intensified when U.S. fur trader, Norman Wolfred Kittson (1814-1888),⁶² constructed a trading post at Pembina in 1843 for the American Fur Company (Bumsted, 2003: 97).

⁶² Kittson was originally from Chambly, Québec and married a Métisse from St. Boniface.

Several Métis were drawn to cross the border to Pembina in order to avoid the HBC monopoly and trade developed between the Usonian and British territories. Ross (1957: 340) noted that in 1844, our “hunters are devotedly attached to [the Americans]. With them, everything American is praised, everything British is dispraised.” The reason for this was the line of communications: “Since the road to Saint Peter’s has become practicable, thither all the moneyless and poor go every summer, to find a ready market for their robes, leather, provisions and garnished work – articles which they could not sell in the colony. [...] Under such circumstances, it cannot be wondered, that the attachment grows stronger and stronger every day.”

The HBC immediately took several steps to stave off the unwelcome competition. On the executive front, Duncan Finlayson’s (1796-1862), who served as Governor of Assiniboia from 1839 to 1844, attempted to punish Andrew McDermott and James Sinclair by refusing to renew their freighting contracts (Stubbs, 1967: 23). When Finlayson retired, the London Committee once again appointed Alexander Christie (1792-1872) as Governor of Assiniboia from 1844 to 1848. He had initially filled this office from 1833-1839, when he notably oversaw the construction of Lower Fort Garry beginning in 1833 and the reconstruction of Upper Fort Garry in 1835. The Governor and Council began to enforce more vigorously the four percent customs duty (Bumsted, 2003b: 97). The cart-trains and homes of suspected free traders were searched and furs were confiscated (ibid.: 98). The only Métis councillor, Cuthbert Grant, who had been appointed sheriff on 20 March 1839 (Dorge, 1974a: 14), was obligated to partake in the enforcement of the company’s monopoly (MacLeod and Morton, 1974: 132-3). Just as in the previous Fur Trade War with the North West Company, Christie issued several proclamations on 8 December 1844 (Bumsted, 2000: 92). The objective of these Proclamations was to discourage illicit trading by threatening to seize goods imported by merchants and traders engaging in what the HBC considered to be illicit trade.

On the legislative front, Thom drafted the first Code of Laws of Assiniboia in 1841, which restated the five percent import duty (Oliver, 1914: 302-3). He suggested other measures, including raising the custom duty, which was not adopted, and a land title deed that “put its recipients in virtual feudal servitude to the HBC” (Bumsted, 2003: 97). On 10 June 1845, the Governor and Council of Rupert’s Land adopted ordinances that explicitly referred to the date of Christie’s proclamations and explicitly incorporated the terms of the

Imperial Act for the Regulation of the foreign Trade of the British Possessions in North America, 1842, into the laws of Rupert's Land (Oliver, 1915: 1303-4). On 19 June 1845, under Thom's influence, the Council passed a series of regulations incorporating the aforementioned ordinances into the Laws of Assiniboia. In both cases, the authorities were undoubtedly hoping to isolate the free traders from the other settlers by allowing for certain exceptions to the import duty (Oliver, 1914: 318-9; 1915: 1303-4).

3.2.1. The Petition of 1846

In 1845, the HBC further clamped down on traders who were selling furs to the American Fur Company. In "the winter of 1845-46 Adam Thom seized a number of people and their furs, gave them a perfunctory hearing and then jailed them" (Pannekoek, 1991: 111). On 11 February of 1846, a meeting was held at trader Andrew McDermott's house "to plan the release, forcibly if necessary, of the prisoners in the Company's custody" (Pannekoek, 1991: 111) and "s'emparer ensuite du gouvernement, faire des lois et imposer leurs décisions au gouverneur de la colonie et au Recorder lui-même" (Giraud, 1984: 934). This is the first recorded reference of the Métis demonstrating a revolutionary intention of toppling the HBC government. Reverend Belcourt advised them not to have recourse to force, but to "user de la légalité en rédigeant une pétition qui transmettrait leurs revendications au gouvernement impérial" (ibid.).

Whereas Bumsted (2003b: 100) finds that the petition was "full of rhetorical excess," it is precisely the vocabulary in which Belcourt couched the Métis demands that I am interested in here. Despite Belcourt's counsel of 'obedience to authority, however evil it was', some traces of the potential of resorting to such extreme measures survived in the petition. It notably mentions "un manque de confiance" in the Governor, the Council and the Recorder, as well as the "disposition des esprits, si dangereuse à la paix et la tranquillité publique" (Isbister, 1846: 9). Further on, it warns that the monopoly of trade creates a "état des choses, le mécontentement public ne peut qu'aller en croissant, jusqu'à ce qu'une explosion funeste à tous [*sic*] les parts s'en suive" (ibid.: 10). The AFC employee stationed in Pembina, Norman Kittson, had forewarned that more radical measures were still possible if the Métis demands were not granted. He was "certain it will end in a revolution, there seems to be a feeling of this Kind (and it is general) throughout the whole Colony, they are determined on

some change and they cannot have any but for the better” (Bumsted, 2003b: 100). Governor George Simpson himself informed the HBC in London that he feared the inhabitants of the Red River Settlement “will run riot and strike a blow to the Fur trade from which its recovery would be very doubtful” (Bumsted, 2000: 99).

The grievance of the petition with which I am most concerned here is the first, which mentions that, “comme sujets britanniques, nous désirons ardemment être gouvernés d’après les principes de cette constitution qui rend heureux tous les nombreux sujets de notre auguste Souveraine” (Isbister, 1846: 9; Stanley, 1961: 46). That this was a reference to an elected legislature is apparent when the petition mentions, “si le peuple comme ailleurs dans les possessions Britanniques avoit part aux loix qui se font” (Isbister, 1846: 9). Interestingly, the petition takes on the issue of the independence of the judiciary, something that was a grievance against the King of England in the seventeenth century and was finally settled with the *Settlement Act, 1701*. The petitioners realised that the municipal revenue did not allow for the creation of a regular court of justice, and so requested that the “juges de paix ou Magistrats [soient] choisis parmi ceux que le peuple respecte et considère comme justes” (ibid.). The petition concluded by stating that “nous admirons la sagesse de la Constitution Britannique et nous désirons les privileges” and was signed by the “Membres d’un Comité élu par le peuple”, including William Dease and J. Louis Rielle (ibid.: 11).

Astonishingly, historian George Stanley (1961: 47) asserted that the “real issue was not one of self government, but of freedom of trade in furs.” This appears true when one takes into account the Half-Breed petition and the *Instructions to the Messenger by the Members of the Committee*, but it is less so when it comes to the Métis petition. It was apparent to Kittson, who wrote in early March 1846, that the Métis would not only “petition the Queen for freedom of trade,” but more importantly for “a Governor independent of the HBC and an elective legislature” (Bumsted, 2003b: 100). While it is true that Kittson’s description of the demands of the Métis is “not entirely accurate” (ibid.), the only inaccuracy seems to have been his reference to an independent Governor whereas Métis demands emphasise an independent Council and Magistrate. Otherwise, it is easy to see how the reference to their status as British subjects, to the privileges of the British Constitution, to taking part in law making and their demand to be governed according to the principles of the British Constitution necessarily implied an elected legislature.

Strangely enough, after having claimed that the real issue was one of freedom of commerce, Stanley (1961: 46) commented five pages further on that the petition did indeed demand a system of representative government. But Stanley (ibid.: 47) just as quickly concluded that it was unlikely that the Métis “who signed the petition had the slightest conception of the political implications of their demand.” Yet, when one considers the subsequent political activity of individuals like William Dease (1827-1913) and Jean-Louis Riel (1817-1864), it seems rather apparent that they understood perfectly well that their rights as British subjects included representative institutions. Aside from that, contemporaries attempted to provide an explanation not only for the lack of political education, but the lack of political mobilisation, in classical republican terms. An editorialist in the *Nor'-Wester* (15 June 1860: 2), possibly James Ross himself, explained the lack of angry demonstration against the HBC government was because “they are not accustomed to combined movements of any kind. The wretched system which denies them participation in the affairs of government has gradually produced a reluctance to action of any kind.” Properly interpreted, this can be placed within the commonplace republican belief that a lack of political participation produces a passive, subservient mentality in the people. Yet, it was precisely the issue of participation and representation that was the very objective of these first political protests and that from then on became a collective objective that was to mobilise the population on several occasions. Despite this, contemporary scholars such as Gilles Martel (1984: 64) continue to assert that “la non-participation du peuple à l’administration de la Colonie et l’absence presque totale de vie politique rendaient impossible le jaillissement d’un objectif collectif qui aurait pu mobiliser cette population diverse dans un effort commun de développement.”

3.3. *The Sayer Trial and the ‘List of Rights’*

In 1849, the population of Red River totalled 5371 individuals, of which 500 (9 percent) were of European origin, 537 (10 percent) were ‘settled Indians’, 1703 (32 percent) were Half-Breeds and 2631 (49 percent) were Métis (Pannekoek, 1991: 18). In the spring of 1849, a number of traders, including one Pierre-Guillaume Sayer (1796-?), were arrested for ‘illegally’ trafficking in furs with Amerindians. Apparently, it was Jean-Louis Riel who initiated the formation of a committee to organise resistance to the HBC’s trade monopoly. It

included prominent Métis from St. François-Xavier, such as Pascal Breland (1811-1896), Urbain Delorme (~1801-1886)⁶³ and François Bruneau (1809-1865), and may have been composed of twelve members.⁶⁴ On the day of Sayer's trial, held on 17 May, Ascension Day, several hundred armed Métis surrounded the court building. Ross (1957: 374) counted "377 guns" and "here and there, groups armed with other missiles of every description." Along with Jean-Louis Riel at the head of the Métis was the Half-Breed, James Sinclair. However, despite their sympathy with the cause of free trade, the Half-Breeds did not participate due to the intervention of the Protestant Clergy (Bumsted, 2003b: 109). For this reason, it was by and large a Métis demonstration.

The Métis once again requested the aid of father Belcourt, who had been recalled to Canada East due to his involvement in the petition of 1846, but had recently returned to the Northwest to continue his missionary work in Pembina. In order to damage the HBC, Belcourt had encouraged the Métis to establish themselves in Pembina, where they were out of range of its monopoly.⁶⁵ At some point in 1849, he also helped the Métis of Pembina write up a memorial to the U.S. Congress, several items of which sought to harm the HBC's business interests (Reardon, 1955: 108-9).⁶⁶ Shortly before the Sayer trial, he sent letters to Pascal Breland and Jean-Louis Riel in which he "told them it was lawful to fight for their rights even by force if necessary" (ibid.: 111). The letter sent to Riel was read near the Cathedral of St. Boniface on 13 May 1849 (Pannekoek, 1991: 114). Riel, then, harangued the Métis from the Cathedral steps immediately after mass, much as his son was to do almost exactly twenty years later. It is also worth noting that Congress created the Territory of Minnesota in March 1849, which included an elected territorial legislature (Gilman, 1999: 3,

⁶³ Urbain Delorme (1832-1912): a Métis plains hunter and trader. He served as a French delegate for Pointe-Coupée at the Convention of Forty. He was later elected as MP for Provencher and MLA (Bumsted, 1996: 273). According to Morice (1912: 78), Delorme "contribua puissamment à l'aquittement de Sayer et à la déclaration de la liberté de commerce."

⁶⁴ Morice (1910: 222) claimed twelve Métis, including Riel, accompanied Sayer into the Court House. As W.L. Morton (1937: 100) astutely observed, "twelve was the number of the council of the buffalo hunt." If so, this would lend weight to Morton's (1967: 78) claim that the organisation structure of the Métis resistance to the trade monopoly was based on the bison hunt, although Morton himself mentioned a committee of ten (ibid.: 77).

⁶⁵ In 1850, the official population of Pembina was 1134 (White, 1999: 38). Belcourt made a census that "showed upwards of 1800 inhabitants" in 1849 (Reardon, 1955: 107).

⁶⁶ Some would have actually hurt the Métis. But by making border crossing more difficult, either to hunt or to trade, Belcourt was seeking to encourage the Métis to settle in Pembina.

6). As the Métis of Pembina were considered to be ‘white’ in the 1850 census (White, 1999: 30), they were granted political rights.

The animosity toward Thom was such that a Métis “demanded to be let in the Court House to shoot Judge Thom on the bench” (MacLeod and Morton, 1974: 136). During the trial, James Sinclair “presented the Court with a document listing the grievances of the Métis and Half-Breed population. The demands included, in addition to free trade and an end of restrictions on American imports, the appointment of Métis and Half-Breed members to the Council of Assiniboia, and the ‘immediate removal of Mr. Recorder Thom from the settlement, and his replacement by someone who would address the Court in both French and English’” (Gibson and Gibson, 1972: 37). When Thom asked Sinclair in what capacity he appeared before the Court, the latter replied as “delegates of the people” (ibid.). According to MacLeod and Morton (1974: 136), the Métis specifically demanded twelve representatives on the Council of Assiniboia. While the jury found Sayer guilty, it recommended mercy and the prosecutor, feeling the HBC’s legal rights were judicially vindicated, recommended against punishing Sayer and dropped the charges against the other traders (Gibson and Gibson, 1972: 38). The Métis took this as an acquittal and cried: “Le commerce est libre! Vive la liberté!” (Ross, 1957: 376). In effect, the monopoly of the HBC was, for all practical purposes, broken as a result of the *Sayer* case. For W.L. Morton (1967: 78), “the crumbling of the commercial monopoly [...] made the advent of self-government inevitable.” This did not prevent the HBC from using other methods to attempt to break their competitors and self-government would only be granted two decades later as a direct result of the Resistance.

Two weeks later, the Council of Assiniboia convened on 31 May 1849 and reformulated Métis demands in five points: 1) The immediate removal of Mr. Recorder Thom from the Settlement; 2) The conducting of all judicial business through the medium of a judge who would address the Court in the French as well as in the English language; 3) The rescinding of the existing law respecting all imports from the United States of America; 4) The infusion into the Council of Assiniboia of a certain proportion of Canadian and Half-Breed members; 5) A free trade in furs (Oliver, 1914: 352; Ross, 1957: 378-9).⁶⁷ As the local sheriff,

⁶⁷ Pritchett (1942: 262) found it to be “an interesting coincidence that it was in the decade of the ‘forties, when questions of free trade were being hotly debated in England, that they were being similarly contested in

Alexander Ross (1957: 373) was an eyewitness who watched all these events “from his own door.” According to Ross, the Métis demonstration had “all the marks of a [...] revolutionary movement” (ibid.). While this is true in a sense, the list of demands that they submitted to the Council of Assiniboia show a somewhat more reformist programme than revolutionary.

3.3.1. Private vs. Public Interest: the ‘Corruption’ of the HBC

While this protest was so evidently a cry for freedom, the fundamental principle of republicanism, historians have tended to reduce it to a question of civil rather than political freedom. But this struggle was not simply an economic one with a private company that had been granted a monopoly by the State; it was a political struggle against a company that had been delegated the powers of government. The HBC necessarily found itself in a conflict of interest when it came to exercising its powers of government in cases in which it was itself a party in the litigation. In other words, the concern of the Métis was also that the public interests were being sacrificed to the private interests of the HBC, the very definition of ‘corruption’ in republican accounts. It also bears witness to a concern on the part of the Métis with judicial reserve and the separation of power and the correlative principle of the independence of the judiciary.⁶⁸

The same can be said of the third article concerning import duty. As we have seen, the import duty was what allowed the HBC to maintain a police force and a court of law in the District of Assiniboia, both of which were open to being used to enforce the particular economic interests of the Company, and notably their monopoly, as opposed to the common good. While the demand concerning the import duty was ultimately unsuccessful, the Métis attempted to impose that most republican of institutions, the transparency of public

Assiniboia; and that the year 1849, which saw the Sayer trial at Fort Garry, also witnessed the repeal of the British Navigation Act.” He concluded that it was “difficult to believe they were entirely unconnected.” In effect, before letting the trial take place, Sinclair “stepped forward with a copy of the *Times* of London for August 1848, which contained a report which stated that many eminent members of the House of Commons had grave doubts about the validity of the Charter” (Stubbs, 1967: 27).

⁶⁸ The Métis eventually succeeded in having Thom removed from the bench. While this was not immediately put into effect, Governor Simpson “advised him not to take his seat on the bench for a year, hoping that in the interval the animosity against his protégé would have subsided” (Stubbs, 1967: 32). After the *Foss v. Pelly* affair, where he acted as judge, advocate and witness, he was finally dismissed as Recorder on 6 December 1850 and demoted to the position of Court clerk. However, his appointment was purely nominal, and he was forbidden from attending court sessions. He managed to remain in the Settlement for another four years, and continued exerting influence as Clerk of the Council of Assiniboia (ibid.: 40).

spending. In the 29 March 1853 meeting, the Council took notice of a petition dated 22 March that was signed by Narcisse Marion and others. It requested that public accounts, receipts, and expense be posted publicly at the end of each fiscal year (Oliver, 1914: 390-391). Although no action seems to have been taken, as Dorge (1974a: 18) remarked, “the petition in itself illustrates how much more aware the French-speaking portion of the population had become of public affairs.” In the spring of 1856, a public meeting was held due to the collection of duties on goods imported from the United States. At the meeting, the HBC “was called an usurper ‘tyrannically claiming rights and powers’ adverse to the interests of the Métis” (Dorge, 1974b: 39). In effect, the Métis seemed to have understood perfectly well that the principle of transparency as a means of avoiding ‘corruption’ in the sense of public monies being spent in the private interests of the few rather than the public interests of the many.

3.3.2. Popular Representation on the Council

While the HBC reacted to Métis demands for increased representation on the Council, this was not necessarily a move toward democracy. As Aristotle (1932: 353) pointed out long ago, in oligarchies “it is advantageous either to co-opt some persons from the multitude, or to institute an office like the one that exists in certain constitutional governments under the name of Preliminary Councillors or Guardians of the Law.” Both these measures had been previously used to co-opt Cuthbert Grant, first by appointing him sheriff and ‘instituting the office’ of ‘Warden of the Plain’, then by ‘co-opting him from the multitude’ as Councillor of Assiniboia. The method of co-opting the Councillors ‘from the multitude’ was all the more oligarchical in that Governor Simpson simply requested Bishop Provencher to submit a list of names of potential candidates to be appointed to the Council. In a letter dated 27 June 1849, Provencher submitted a list of six names that included, “among the Canadiens: Narcisse Marion and Maximilien Genthon dit Dauphiné, both from the forks; among the Métis: François Bruneau and Salomon Hamelin, of the Forks and Pascal Breland of the White Horse Plain” (Dorge, 1974a: 15). According to Pannekoek (1991: 115), they were all “wealthy traders, had interests in freighting and they hoped through their Council positions to increase their share of Company and Red River business.” As a sixth name, Provencher proposed Reverend Louis Lafleche.

Three days later, Simpson sent a copy of Provencher's letter to the Committee in London along with a recommendation to appoint Lafleche. However, he considered "the others are ignorant and illiterate although represented by the Bishop as sufficiently intelligent to report to the French half breeds the proceedings of the Council" (Dorge, 1974a: 15). A few days later, probably after speaking to Provencher, Simpson changed his mind concerning Bruneau. On 5 July 1850, he wrote to the London Committee that Bruneau "is a man of some standing in the settlement and of fair education, having being brought up by the Bishop for the priesthood" (Dorge, 1974a: 16). He also acknowledged that, "the Bishop, in urging the appointment of these parties, was solely actuated by a desire to remove the murmurs of his Congregation & to promote the peace of the settlement, as the Canadian Halfbreeds, who form a very large proportion of the inhabitants, from not being represented on Council by any of their own party, feel that they are not put on a footing of equality with the other classes in the community" (ibid.).

The London Committee replied that, with "regard to the addition proposed to be made to the Council by the admission of six halfbreeds, it is not the intention of the Governor and Committee to increase the number of councillors at present to that extent or in that way" (ibid.). The Métis accepted the principle of appointing rather than electing Councillors with difficulty. In a petition of 8 June 1850, the Métis wrote to Governor Simpson: "You promised us last year that we should have councillors chosen from our nation by ourselves, but they were nominated without our knowledge" (A.S. Morton, 1978: 33). As Giraud (1984: 905) points out, the Métis were already used to popular consultation and to the government of the bison hunt. Like A.S. Morton, Giraud (ibid.) also referred to a petition of 1850 as proof that the ideal of the Métis "eût été la formation d'un gouvernement purement électif, où les magistrats, aussi bien que les conseillers, eussent été désignés par le suffrage populaire." Some progress was made in the separation of commercial activity from that of government when, on 1 May 1850, Eden Colville, the Governor of Rupert's Land and of Assiniboia, informed the Council of Assiniboia that the London Committee had issued instructions that the Governor of Rupert's Land "was no longer to preside, either in Court or in Council" (Dorge, 1974a: 16).

At the Council meeting of 5 September 1850, Rev. Lafleche was sworn in as councillor (Dorge, 1974a: 16). In a letter dated 22 May 1851, Eden Colville wrote to Simpson that, "this

preponderance of the clerical element [in the Council] causes a good deal of Dissatisfaction. I think of recommending to the Committee the names of François Bruneau, Saloman Hamelin and Pascal Breland” (Dorge, 1974a: 18). In the short term, of the three, only François Bruneau was appointed Councillor of Assiniboia on 29 March 1853 (Oliver, 1914: 389). However, on 7 June 1853, Bishop Provencher passed away and a year later Cuthbert Grant died on 15 July 1854. When Lafleche returned to Canada East in June 1856 (Dorge, 1974a: 19), Bruneau became the only Francophone member of the Council.

When Johnson succeeded Caldwell as Governor of Assiniboia in 1855, he also apparently made an agreement to increase Francophone representation on the Council (A.S. Morton, 1973: 667). To put pressure on the Council, the Métis refused to pay the customs duty unless they had representation on the Council equal to the English. In other words, as A.S. Morton put it, “no taxation without representation” (ibid.). Subsequently, on 19 September 1857, three more Francophones were sworn in as members of the Council: Pascal Breland, Salomon Hamelin and Maximilien Genthon (ibid.: 426; Dorge, 1974b: 40). A former Chief Trader, Henry Fisher, was sworn in as Councillor on 25 June 1857 (Oliver, 1914: 423). Despite his name, Fisher was a Métis francophone, the son of an agent of the AFC and Marianne Lasalière, the great-granddaughter of an Ottawa chief and spoke English ‘very imperfectly’ (Dorge, 1974b: 39). On 25 June 1858, Bishop Alexandre Taché was sworn in as Councillor (Dorge, 1974b: 41). When John Dease was sworn in on 5 March 1861, the number of Francophones became seven, two of whom were *Canadiens* and five of whom were Métis.⁶⁹ Dease, however, seems to have left for Dakota in 1863 (ibid.: 44). Roger Goulet (1934-1902) was appointed councillor on 4 January 1866 (Oliver, 1914: 560). Both William Dease⁷⁰ and James McKay (1828-1879), whose mother was Métisse, were sworn in as Councillors of Assiniboia on 23 January 1868 (Oliver, 1914: 582; Dorge, 1974c: 56) On the eve of the Resistance, the last of the ten Métis appointed to Council, Magnus Burston of St. François-Xavier was appointed on 6 August 1868 (Oliver, 1914: 587).

⁶⁹ In records, Dease’s name was often written ‘Desce’ or ‘Desse’, indicating that it had acquired a French pronunciation.

⁷⁰ According to Trémaudan (1984: 140), Dease was “un Métis, malgré la tournure anglaise de son nom.”

3.3.3. Popular Representation in the Judiciary

As we have seen, the second method of co-optation in oligarchies that Aristotle (1932: 353) mentioned was “to institute an office [...] under the name of Preliminary Councillors or Guardians of the Law.” On 16 October 1850, eleven magistrates were appointed, including François Bruneau, Maximilien Genthon, Pascal Breland,⁷¹ Urbain Delorme and Joseph Guilbeault (Oliver, 1914: 361). A year later, in November 1851, Louis Bousquet was appointed as judge of the petty court of the upper district (Dorge, 1974a: 18). During the meeting of 9 December 1858, it was moved to appoint Justice of the Peace William Dease (Oliver, 1914: 434). But Dease initially refused due to the inadequate salary of £5 per annum and the Council voted unanimously on 10 March 1859 to raise the salary to £10 (Oliver, 1914: 435; A.S. Morton, 1973: 434; Dorge, 1974b: 41). On 5 March 1861, Solomon Hamelin was confirmed as judge of peace for the Middle District (Dorge, 1974b: 44). At the meeting of 14 March 1861, of the four persons nominated as Collectors of Customs at a salary of £40 per annum, three were Métis: Pascal Breland for the White Horse Plain, Roger Goulet for Upper Fort Garry and William Dease for St-Adolphe (Dorge, 1974b: 44). On 9 April 1861, François Bruneau was “appointed President of the Middle District Petty Court with a salary of £16. Per Annum.” (Oliver, 1914: 479). Another Métis, Norbert Larance was appointed justice of peace of the Middle District at the meeting of 29 November 1866 (Oliver, 1914: 568).

While this opened up certain positions in the executive to the Métis, it also reinforced a certain oligarchical tendency. As Dorge (1974b: 45) put it, the “performance of duties attached to the appointments was also a sure way to gain experience in civil affairs.” The position of justice of peace seems to have been a training ground to prepare individuals for positions as councillors, thereby assuring that appointments were limited to the ‘happy few’ that had proven their reliability and fidelity to the regime.

3.4. *The Annexation Movement*

Around the same time that the Métis met with mitigated success in their demands for political reforms, Canada-West was becoming increasingly interested in the annexation of

⁷¹ Ironically, after resisting the HBC monopoly in 1849, he was later appointed customs officer to collect the 4 percent duty.

the Northwest (A.S. Morton, 1973: 825-842). In 1850, John McLean, author of *Twenty-Five Years' Service in the Hudson's Bay Territories* (1848), essentially revived the NWC claims when he wrote to George Brown that, "the interior of Rupert's Land belongs to the people of Canada both by right of discovery and settlement" (Bumsted, 2003b: 126). The Canadians "harped on the illegality of the Charter and on the Red River Settlement as outside the chartered territory and as being really Canadian domain" (A.S. Morton, 1973: 862). In other words, as far as the Canadians were concerned, the area *already* belonged to Canada West by virtue of the *Treaty of Paris, 1763*. Imperial Parliament granted, at first, criminal jurisdiction in the Northwestern Territory to Upper and Lower Canadian courts in 1803. It then extended the jurisdiction of the Courts in 1821 to both criminal and civil matters in both the Northwestern Territory and Rupert's Land. This undoubtedly confirmed in the minds of Canadians that Canada *already* had jurisdiction over the Red River valley. The strategy of contesting the legality of the HBC's *Charter* in order to undermine the legitimacy of institutions that were founded upon it would go so far as refusing to obey the laws of the Council of Assiniboia's or the decisions of the General Quarterly Court and jail-breaking (Bumsted, 1996).

Among the fifteen individuals that would spearhead the western expansion movement, it is noteworthy to mention: Simon James Dawson, who would propose the building of a wagon trail between Lake Superior and Red River in 1859, a project that was effectively undertaken by the federal government in 1868; William McDougall, who would later personally negotiate, along with Georges-Étienne Cartier, the conditions of annexation and be appointed Lieutenant-Governor-in-waiting of Manitoba; and George Brown, who began to promote annexation in his paper, *The Globe*. Later on, Alexander Morris, who would also be appointed Lieutenant-Governor of Manitoba in 1872 and negotiate many of the numbered treaties, also joined the group. Most of these were Reformers and some, like McDougall, even came from the Party's radical wing, the Clear Grits. It is hardly surprising that they would become the inveterate enemies of the HBC as they undoubtedly saw both in the Company's trading privileges and in the Governor and Council of Assiniboia an isomorphic institution with the Family Compact. In other words, the struggle against the Company was an ideal situation for reactivating Reform ideology and republican conventions.

The year 1857 was a watershed in the Settlement's history. William Cowan (1818-1902), who arrived in Red River in 1848 as the doctor of the Chelsea Pensioners and was appointed to the Council of Assiniboia in 1853, dated "the weakness of the Company's Government from 1857, when the English-speaking people became dissatisfied" (Canada, 1874: 126). Although there was no sudden change in political status, it was a harbinger of things to come. Beginning in the late 1850s, Canada-West annexationists began showing up in the Settlement, the drizzle that announced the coming flood. While Tully (1988: 13) notes that political theories are "about contemporaneous legitimation crises caused by shifting alliances," one could say that in the case of Assiniboia, the 'shifting political alliances' were a response to the legitimation crises of the HBC government. In the following years, the Métis leaders, and most notably Jean-Louis Riel, found themselves in the position of defending the Council of Assiniboia against the efforts of the Canadians to undermine it (Stanley, 1985: 46). While the Half-Breeds were becoming increasingly vocal in claiming their 'rights as British subjects' against the HBC government, and on this basis aligned themselves with Canadian annexationists, the Métis found themselves going from a position of opposition to the government of Assiniboia to one of supporting it against a common adversary.

It was in 1857 that complaints about the HBC's administration finally led to a Parliamentary inquiry. Since the HBC's licence was up for renewal in 1859, the House of Commons took advantage of the opportunity to appoint a Select Committee on 5 February 1857, "to consider the state of those British Possessions in North America, which are under the administration of the Hudson's Bay Company or over which they possessed a license to trade" (Oliver, 1914: 23). The government of United Canada took advantage of the situation by commissioning Chief Justice Draper to act as an observer of the investigation of the Select Committee "and generally to press upon the British Government the rights and interests of Canada relative to the North-West" (Stanley, 1961: 23). Draper notably carried with him a memorandum prepared by Joseph Cauchon, Commissioner for Crown Lands, which reiterated the NWC's arguments that Red River Valley was part of New France since it had been occupied by the French, and was therefore outside the boundaries of Rupert's Land (Canada, 1857). In their final report, the Committee effectively advised two options for the Red River Settlement. In its seventh point, it suggested annexing the Red River

Settlement to Canada (1857: iii). Failing this, it suggested in its ninth point, “to consider whether some temporary provision for its administration may not be advisable” (ibid.: iv), which essentially meant setting up a Crown Colony.

It was also in 1857 that two separate explorations were sent to the Northwest, a British one headed by John Palliser and a Canadian one headed by Henry Youle Hind and the aforementioned Simon James Dawson. It was the latter’s namesake that would be applied to the road that would later be built between Lake of the Woods and Winnipeg in 1868, as recommended in his report in 1858. As we have seen, the concession of appointing Métis to the Council already compared unfavourably with the United States in 1850, when the Legislature of the Territory of Minnesota adopted a law that provided that, “all persons of a mixture of white and Indian blood and who shall have adopted the habits and customs are hereby declared to be entitled to all the rights and privileges” of voting (White, 1999: 38). When a Métis was elected to the Legislature of Minnesota in 1857 (Giraud, 1984: 60), the HBC regime must have seemed all the more decrepit. In terms of the diffusion of ideologies, two young journalists, William Buckingham and William Caldwell, arrived in the Settlement and founded its first newspaper in December 1859, the *Nor’-Wester*. Although both were English rather than Canada-Westerns, their paper promoted annexation and attacked the legitimacy of the HBC’s *Charter*, including its territorial claims and right to govern. In its first issue, it notably published an article, “Why We Are Not Annexed to Canada” (*Nor’-Wester*, 28 December 1859: 2.), that put the blame squarely on the shoulders of Georges-Étienne Cartier.

3.4.1. The Kennedy Petition

Another member of the annexation movement was the Half-Breed, Captain William Kennedy (1813-1890). Born in Cumberland House and sent to Orkney for this education, he left the HBC after fifteen years of service to settle in Canada West in 1848 where he began to lobby against the HBC’s monopoly. Extracts of a letter to the Governor General of Canada to this effect were published in Brown’s *Globe* in 1848 (Shaw, 1970). In order to prove the viability of the route from Canada West to Red River, he travelled overland from Toronto to the Settlement in 1857 (Bumsted, 2003b: 128). Once arrived, he attempted to gain local support for annexation by circulating a petition that was sent to London. It notably

appeared in the Appendix of the Select Committee's *Report on the HBC* (United Kingdom, 1857: 437-439).

The petition begins by referring to their 'privileges' as British subjects and ends with a plea in favour of annexation to Canada as a means to securing such rights.⁷² The rest of the petition can be read as the substantive content of these rights, although often voiced in the negative, in addition to the themes of the 'threat' of the U.S.⁷³ and the revival of NWC claims,⁷⁴ which is of course a justification of annexation. It repeats previous grievances concerning land deeds and the HBC's efforts to enforce its monopoly. When the petitioners state that as "British subjects, we desire the same liberty and freedom of commerce, as well as security of property, may be granted to us as is enjoyed in all other possessions of the British Crown," they essentially plead for confirmation of title in fee simple and freedom of commerce. The question of freedom of commerce is compounded by the inapplicability of the Reciprocity Treaty between the U.S. and the United Canadas to the Settlement and the "interference with those of aboriginal descent" (ibid.: 438), which is undoubtedly a reference to Half-Breeds.⁷⁵

The complaints concerning the HBC system of government – the Councils "in constituting of which we have no voice", the appointment of members by the HBC, their passing of laws "affecting our interests", "the Governor who is also judge, and who holds his appointment from the Company", the councillors, who are "to a greater or lesser extent dependant on that body", the Governor and Council who "make the laws, judge the laws, and execute their own sentence" – all suggest the right to an elected, representative legislature and to the division of powers, most notably in the form of an independent judiciary. Interestingly, the context of the reference to the import duty implies the slogan of 'no taxation without representation'.

⁷² The laws of the Canadian people "being extended to us, will guarantee the enjoyment of those rights and liberties."

⁷³ This threat takes two forms: a repetition of the annexation of the Oregon territory by U.S. settlement and the temptation on the part of British subjects to favour of U.S. annexation, with its corresponding rights and liberties, over the 'tyranny' of the HBC.

⁷⁴ "We believe that the colony in which we live is a portion of that territory which became attached to the Crown of England by the Treaty of 1763."

⁷⁵ As we have seen, prior to the Sayer trial, the Métis claimed that even if the trade monopoly was legal, they were excluded from its ambit, as the Charter did not extend to Aboriginals trading amongst themselves and they were Aboriginals.

If the petition primarily attracted the support of Half-Breeds, it should not be concluded that the Métis did not support it in general. Amongst the 574 signatures, the petition “bore the signatures of 119 men with French names or known to be French-speaking, as well as fourteen more who may have been of French origin, and two with mixed names” (Spry, 1985: 111). In addition, as we have seen, the Métis had already fought against the HBC’s trade monopoly. Later, they were to themselves protest against payment to the HBC for land they claimed as their own and demand an elected assembly in 1860 (*Nor’ Wester*, 14 March 1860: 2). Initially Jean-Louis Riel seemed supportive, presiding a meeting where Kennedy spoke to the French-speaking section of the population on 25 March 1857 (Giraud, 1984: 953). His behaviour was subsequently cautious, especially when compared with his involvement in the Sayer trial eight years earlier (ibid.: 958). According to Giraud (ibid.: 955), if the Métis “avaient d’abord paru favoriser [l’agitation politique], [...] leur clergé [...] les détourna de signer la pétition qu[e Kennedy] leur soumit en faveur de l’annexion.”

What Bishop Taché feared about annexation was a flood of Anglo-Protestant immigration (Giraud, 1984: 956). He would later write to Georges-Étienne Cartier on 7 October 1869: “J’ai toujours redouté l’entrée du Nord-Ouest dans la Confédération parce que j’ai toujours cru que l’élément français catholique serait sacrifié” (qtd. in Stanley, 1961: 61). Governor Simpson wrote on 8 August 1857 that the “Roman clergy have been disposed to uphold the Company, probably under the impression that any change in the government of the colony, specially its transfer to Canada, would weaken their influence” (Giraud, 1984: 954, note 8). Moreover, Taché was of the opinion that “notre population n’a pas d’éducation politique suffisante pour se gouverner seule” (ibid.: 956). In a prelude to the Resistance ten years later, a counter-petition was circulated in French in June 1858, “expressing opposition to the annexation of Assiniboia by Canada without guarantees for the inhabitants” (Dorge, 1974b: 39). Nevertheless, it would seem that these incidents shook Simpson up enough to consider appeasing both the Métis and Half-Breeds through the introduction of the elective principle into the government, although the Clergy and others “do not wish that the present Councillors should be removed, but that the public should have the right of filling up vacancies by election” (qtd. in Dorge, 1974b: 39).

3.5. Crown Colony Status

The idea of obtaining Crown colony status for the Settlement was hardly new. Following the Fur Trade War, Commissioner Coltman had recommended the establishment of a Crown colony (Trémaudan, 1984: 112). Alexander Ross (1956: 221) hinted at Crown colony status when he hoped that “the day is not far distant, when the British Government will say to the Hudson’s Bay Company, ‘Relinquish your chartered rights, not without their just value, indeed, and we will take the country to ourselves’.” In addition, he perhaps unwittingly evoked one of the very reasons for which the Métis would oppose such efforts when he hoped, “for the sake of the redundant population of the British isles, the bargain will be speedily and finally closed” (ibid.). The 1846 Petition of the Métis had ended up in the hands of a relative of Captain Kennedy, Alexander Isbister, himself a Half-Breed, who practised law in London. Around the same time he carried it to the attention of the British authorities between 1847 and 1849 (Bumsted, 2000: 91-114), Isbister also raised the question of the political status of the Settlement. In a letter of 22 March 1848, Isbister claimed that the inhabitants of the Settlement sought the protection of the Imperial Government, “either by incorporation into Canada or by establishment of a separate government,” meaning by the latter a Crown colony (Bumsted, 2000: 112).

The British Government would once again promptly ignore the suggestion of a Crown colony. On the advice of Herman Merivale, Permanent Undersecretary of the Colonial Office, Earl Grey “refused to contemplate the difficult and expensive alternative of establishing and administering a crown colony in Rupert’s Land” (McNab, 1981: 289). But expenses were not the only reason for not changing the status of the Settlement to that of a Crown colony. When the Métis claimed the right to trade with their Amerindian cousins as an Indigenous people, Governor Christie and Pelly insisted they were simply British subjects. Normally, as British subjects they should have enjoyed full political rights, which meant the establishment of a Crown colony and self-government. But when Major John Griffiths submitted his *Memorandum upon the Petition of the French ‘Half-Breeds’ of the Red River Settlements, Hudson’s Bay Company* in 1849, he reported that the Métis were not “at present, neither from position, habits or character fitted for legislators” (Bumsted, 2000: 114). In other words, in Aristotelian language, the Métis were simple craftsmen, or ‘living tools’, and could not be trusted to perform responsibly the duties of the master craftsman.

3.5.1. The Corbett Petition

One of the individuals that testified to the Select Committee on the HBC in 1857 was the Anglican Reverend, Griffiths Owen Corbett (1823-1909). He had been in the Settlement from 1852 to 1855 and had notably founded a mission in Headingly that mainly served Half-Breeds. During the inquiry, he gave testimony on three subjects that were mentioned in Kennedy's petition and were to later reappear in the *List of Rights* of the Provisional Government of Assiniboia. According to Corbett, the "people think they ought to have a voice in representing their grievances; that, in short, there should be a representative government in the colony" (HBC Report, 1857: 145). The democratic culture of the 'settlers' – undoubtedly Half-Breeds – was demonstrated in regards to the import and export duties. Corbett had travelled with certain freighters to St. Paul and reported that they "held a council, and they debated whether they would pay the import duty or not, and they said, 'The roads are not improved; we are obliged to make our own bridges as we cross; we are obliged to wade across with our carts; we will not pay the import duty.' That was the resolution which was passed" (United Kingdom, 1857: 143). Thirdly, Corbett reported that 'the people' were indignant at the HBC's raising of the terms for leasing lands. In the first place, they claimed to be "the original proprietors of the soil, and now that we wish to settle down and form a settlement" and in the second place, "the terms are raised so that we cannot pay them; we have not the means of paying them" (United Kingdom, 1857: 139).

After his testimony, Corbett petitioned to be reinstated at Headingly and returned to the Settlement in the spring of 1858, where he would remain until June 1864. Immediately upon setting foot in Assiniboia, Corbett set about collecting signatures for a petition demanding Crown colony status (Pannekoek, 1991: 150). If the Métis were not indifferent to the establishment of representative institutions, when Corbett tried to get them to sign a petition in 1858, he was largely met with complete indifference (Giraud, 1984: 959). Again, religion played a role here as Corbett had made his dislike of the Catholic Church well known (Pannekoek, 1991: 159-160). If the Métis were indifferent, annexationists such as William Kennedy, James Ross and Donald Gunn (1797-1878) actively opposed Corbett's efforts by drawing up a counter-petition (ibid.: 150). In his *Notes on Rupert's America* (1868), Corbett mentioned two petitions from 1859, one "signed by the clergy and people, and another was also subscribed by the Bishop and Clergy" (ibid.: 27). He reproduced the latter, which

underscored the “anomalous condition wholly different from all other parts of the British Empire, without a Governor subject to the control of the Crown, the present Officer being appointed by, and subject to, the H.B. Company, that the law has been administered by a Judge, appointed by, and subject to, the control of the said H.B. Company; that the present legislative body [...] are nominated exclusively by the H.B. Company.” The petition ends by requesting the “same privileges” as “the country west of the Rocky Mountains” which obtained “the full privileges of a British Colony” (ibid.: 28).

Corbett had brought with him a small hand-set printing press which allowed him, in 1859, to print a broadside entitled *A Few Reasons for a Crown Colony*, in which he enumerated eight reasons that basically contrast the *autonomy* of crown colony status with the *heteronomy* implied in annexation. Two articles addressed financial considerations in these terms: Crown colony status would make Assiniboia “the Capital of the country, which would tend to raise the value of landed property”; it would not be subject to the general taxation of Canada, but would be liberally subsidised by the Imperial Government. Most of the remaining articles directly addressed the issue of self-government and the relative autonomy of the Settlement. If annexed to Canada, the District would be “in the hands of a subordinate power”; it would find itself ‘1,000 miles’ from the seat of government; it would have the status of a mere county and find its power limited to “a small portion of the territory.” Corbett also targeted the heteronomy of the HBC when he held that “a Council on the spot, chosen by the people themselves [...] would be the surest safeguard against any chartered bodies with exclusive privileges, and the best security against any untoward influence in Canada or England.” (Peel, 1974: 1).

As a result of the Report of the Select Committee, the Duke of Newcastle, colonial secretary from 1859 to 1864, “favoured the creation of a Crown Colony in Rupert’s Land as a connecting link between Canada and British Columbia, all of which would eventually comprise a British North American federation” (Pannekoek, 1991: 145). The Duke’s proposal meant “an elective legislature and responsible government” as well as “the control of the natural resources by the people” (A.S. Morton, 1973: 862). This latter issue was to become one of the major concerns of the Métis in 1869. The idea of a Crown colony must have picked up support in the Settlement when the *Nor’-Wester* (28 February 1860: 3)

reported that Newcastle was preparing to place a bill ‘for that purpose’ before Imperial Parliament.

What was problematic about this proposal for the Métis was that the *Nor’-Wester* harped on the importance of promoting immigration (14 April 1860: 2), it found in this an argument for a self-sufficient government of a Crown colony, since “the sale of land would throw money into the public treasury instead of into the Company’s pockets” (A.S. Morton, 1973: 862). As we have seen, the immigration issue had Taché already worried. He promoted the incorporation of the Colony of Assiniboia into a Confederation of British Crown Colonies where each “would take its place as independent and sovereign States, making their own local laws, and having control over their own affairs” (*Nor’Wester*, 1 February 1861: 1).⁷⁶ While this foreshadowed Riel’s demand of provincial status, Corbett – or *Corps Bête*, as the Métis called him – surely alienated the latter when he asserted that Confederation would “drown out the French Roman Catholic influence of Canada East” and mentioned that it “would induce rapid emigration” to the Red River country (*ibid.*).

Traces of Corbett’s thought can be gleaned in later publications, such as his *Notes on Rupert’s America* (1868) and his *Appeal* (1870) to Gladstone. They appear, however, to be entirely consistent with the ideas that he expressed a few years earlier. In his *Notes*, Corbett primarily attacks the legality of the HBC’s *Charter*, but the thrust of his argument seems to be that it was incompatible with the fundamental rights of British subjects going back to the *Magna Carta* (*ibid.*: 40-41). In his *Appeal*, he basically claimed for much the same reasons that the transfer of the Rupert’s Land to Canada was illegal since the HBC had no rights in the Territory. It is this reference to the rights of British subjects that would seem to be Corbett’s lasting contribution to the political self-awareness of the Half-Breeds. If the “imperialist rhetoric made headway among the settlement’s English-speaking mixed-bloods”, it was because “the status of crown colony implied an extension of British rights and privileges, including the franchise, and an end to the ostracism widely practised by English pure-bloods” (Boreskie, 2000).

What is generally known as the ‘Corbett Affair’ is the court case where Corbett was accused of attempting to induce miscarriage in a servant girl he had employed in order to get

⁷⁶ I am presuming that Pannekoek (1991: 260, note 10) is correct in attributing this article to Corbett. There is no indication of the author in the article itself.

rid of what was presumed to be his own illegitimate child (Pannekoek, 1991: 151; Bumsted, 2000: 129). What is interesting is not so much the case itself, but the willingness on part of the Half-Breeds to believe Corbett that it was part of a conspiracy on the part of the HBC to discredit him and maintain their ‘despotic’ government (Pannekoek, 1991: 151-2). It is not only the political ideas that were raised during this period that matter, but their effect on the Half-Breeds, or at least a certain class of them, for such ideas effectively brought an end to the deference the Half-Breeds had toward the HBC. Their loyalty to the Queen, however, created an ambiguous relation to the Governor and Council of Assiniboia. Although they had directly contributed to the political impotence of the HBC, the Half-Breeds refused to fill the consequent political vacuum by participating in the establishment of a provisional government. Instead, they desperately sought to salvage any remaining remnant of the HBC’s authority out of fear that creating a provisional government would bring about accusations of treason against the Crown.

3.5.2. The Ross Petition

Credit for raising the political self-awareness of the Half-Breeds cannot go to Corbett alone. One of the people whose career was to span this crucial period was James Ross (1835-1871), himself the Half-Breed son of historian Alexander Ross. He was first educated at the St. John’s College in Assiniboia before attending the University of Toronto from 1853 to 1857. Due to succession problems after the death of his father and brother, he returned to the Settlement in 1859 and was appointed postmaster. In 1860, he bought William Buckingham’s share in the *Nor’-Wester* and immediately became associated with the anti-HBC Canadian faction. He was nevertheless appointed governor of the gaol and sheriff in 1862.⁷⁷ Ross sold his part in the *Nor’-Wester* in late 1863 and returned to Toronto in 1864 to study law. After working as a clerk and passing his bar exams, he pursued an M.A. before working for George Brown and the *Globe* between 1865 and 1869. He then returned to Red River where he was to play an important role in the events of 1869-1870.

Although Ross was initially in favour of annexation and even opposed Corbett’s petition to establish a Crown colony in Rupert’s Land, he temporarily rallied to Corbett’s position. The reasons seem to be given in an editorial in the *Nor’-Wester* that was probably written by

⁷⁷ This was most likely another attempt on the part of the HBC to co-opt Ross as they had done with Cuthbert Grant forty years before.

Ross: “since the Canadian Government are [*sic*] so lukewarm on annexation, a Crown Colony is the only other practicable scheme” (28 February 1860: 2). In effect, in an article entitled “Why We Are Not Annexed to Canada,” the *Nor’-Wester* (28 December 1859: 2) printed an extract of a letter from Alexander Isbister, the Half-Breed who practised law in London, to Donald Gunn, the outspoken critic of the HBC who supported annexation to Canada. Isbister obtained an interview with Sir Edward Bulwer-Lytton (1803-1873),⁷⁸ the Secretary of State for the Colonies, and reported to him a meeting held in the Settlement the previous autumn in favour of annexation. According to Isbister, Bulwer-Lytton had himself pressed the issue on the Canadian government, but Georges-Étienne Cartier replied that, “as head of the Lower Canadian party, any proposal of the kind would meet with his determined opposition – as it would be putting a political fire-extinguisher upon the party and the Province he represented; and, if carried out, would lead to a dissolution of the Union.” Interestingly, while Cartier was unwilling to accept annexation to Upper Canada, he was willing to admit the territory as “a separate colony, to form part of a general federation of the British Provinces” (*ibid.*).⁷⁹ The *Nor’-Wester* also reported that several editorialists in Canada-West supported Cartier’s position (*Nor’-Wester*, 28 March 1860: 2). Cartier’s position implied that the District of Assinibioia would first have to be set up as a separate Crown colony, and only then integrated as a federated State in a federation of British North American colonies, rather than simply annexing the entire Northwestern Territory and Rupert’s Land to Canada-West.

Ross’ editorial mentioned that “a Governor and Judge are to be sent us from England and other necessary officials will be left to the choice of the Local Legislature, which, we are further informed, is to be elected by the people. This outline, meagre though it be, is very satisfactory: it gives us what more than anything else was desirable – namely, an elective council” (*Nor’-Wester*, 28 February 1860: 2). It is interesting that the *Nor’-Wester*

⁷⁸ It was none other than Bulwer-Lytton who coined the phrase “the pen is mightier than the sword.”

⁷⁹ Cartier’s opposition was mentioned again in “North Western Extension” (*Nor’-Wester*, 24 December 1862: 1). If it was penned by Ross, he was already reverting to his previous position on annexation, stating that if “a Crown Colony could be obtained it is not desirable.” He expressed concern that it would simply reproduce the Family Compact in Upper Canada: “Make it a separate Province, and its affairs will get in the hands of a little clique such as has retarded the early progress of every colony established by Britain. They will cluster round the Downing-street Governor, job in lands, try to prevent the people from obtaining power and dry up the life blood of enterprise and prosperity.” Instead, he wished that “the North-West territory be subject to *our* laws, open to *our* people” in reference to Canada-West. If Ross was the author, this is further evidence that he had taken on a Canada-West identity following his studies there.

editorialist did not think the Half-Breeds and Métis incapable of handling a representative and responsible government. He then stated that a “community of eight or ten thousand souls is too large and important, surely, in these times of democratic ascendancy, to be deprived of elective institutions” (ibid.). The editorial went on to say, “apart from mere numbers, our intelligence, our material possessions, and our morality, clearly entitle us to the franchise. This power to elect our own Councillors and control the expenditure of our own money, is a great boon; but it is, after all, only our right as British subjects” (ibid.). While Ross recognised that through “want of experience, we may for a time encounter difficulties in getting representative institutions to work,” he nevertheless “expressed confidence in the judgement and good sense of our people” (ibid.).⁸⁰

In a later editorial in the *Nor'-Wester* on the ‘Present Unsatisfactory Condition of Red River’ (15 June 1860: 2), the paper essentially complained of the lack of separation of powers. The relationship between the Council and Courts was portrayed as “not only wrong and mischievous, but it is thoroughly un-British. No principle has been more clearly laid down in England than this – that one set of men should make the laws and quite a different set execute them.” The appointment of Councillors and judges by the HBC, the plurality of offices and the non-separation of powers all allowed the public interest to be subverted to both the commercial interests of the HBC and the private interests of the Councillors and magistrates. Typically, the article forewarned that, “if important changes are not speedily brought about, securing to us an unfettered, efficient, responsible system of government, [...] Red River loyalty will not be worth a sixpence. There is a large party here who, if they had the opportunity to morrow, would vote for annexation to the United States.” Again, loyalty to the Crown was repeated: “we value British connection and British institutions”. But it came with conditions: “if we cannot reap any advantage from either, of what use are they to us?” More ominously, it evoked the possibility that if the people of Red River were kept “in their miserable state of serfdom for two or three years longer, [...] they will take the

⁸⁰ It is mentioned in the article, “North Western Extension” (*Nor'-Wester*, 24 December 1862: 1) that the *Mercury* maintained that, “the people of Red River are not fit for government.” While the editors of *Nor'-Wester* replied that the “people of Red River are quite as intelligent and well educated as those of Canada, and perfectly well able to manage their own affairs,” they also argued that if “the country were joined to Canada, however, a single year would supply an emigrant population numerous enough to take charge of the affairs of a county municipality.” This was precisely what the Métis and the Catholic clergy feared most.

reins of government into their own hands [...]. This will be a natural, if not welcome, result of the last five years' wavering, do-nothing policy of the Imperial Government.”

In another editorial entitled ‘Assiniboia’, the *Nor'-Wester* (15 November 1861: 2) underscored the fact that the Settlement was “upon British Territory” and that its “population consists of British-born subjects and their descendants”. Yet, “we have no official recognition at the Colonial Office” and “our Governor does not hold a commission directly from her Majesty”. The writer complained that, “we are nothing, nowhere, of no consequence”, that other “colonies deny us the honor of their society; being themselves sisters of equal standing, they set us down as a stranger or pretender, and question our legitimacy.” It was undoubtedly Ross who penned this editorial,⁸¹ and he was probably referring to the frustration of the Half-Breeds at not being treated as equals, despite formal equality, an injustice that Crown Colony status promised to put right.

Due to the border dispute over the San Juan Islands, the British Government sent troops to Red River to defend its possessions. When the Canadian Rifles left the Settlement in 1861, the Governor Dallas and Council were once again left without the means of monopolising legitimate violence. They consequently asked the *Nor'-Wester* to publish a petition to have troops stationed in the Settlement. If Ross published the petition for troops, he nevertheless added a supplementary counter-petition in which he criticised the government of the HBC and took a position in favour of self-government. The first half of the petition mentioned the “weak and inefficient government”, but otherwise simply presented the arguments of the Governor and Council of Assiniboia, including an extract from the minutes of a meeting of the Council where it was moved to request that British troops be stationed in the Settlement (*Nor'-Wester*, 17 November 1861: 2). Ross reminded the Duke of Newcastle of Kennedy’s petition of 1857 and of the ‘deep and widespread local discontent’ with the ‘very unsatisfactory rule’ of the HBC. Ross repeated his editorial position on representative government, stating “we consider it time we had some direct influence in the affairs of government. Our legislative body is composed entirely of nominees of the Hudson’s Bay Company in London, and we, for whom they legislate, have

⁸¹ Pannekoek (1991: 260, note 10) attributed an article in this same edition of the *Nor'-Wester* to Corbett. However, the article cited here was the only one I could find that speaks of Crown Colony status and it seems to be an editorial written by the owners, not a letter to the editor. Some of its points are remarkably similar to the Petition written up by Ross and the claim that in Red River, “all is dullness and deadness” was a sentiment Ross’ expressed elsewhere (Van Kirk, 1985: 210).

no voice whatever in their appointment and exercise no control over their proceedings.” Further on, he used the argument of “the security of life and property which, as British subjects, we ought to have.” He then referred to the conflict of interest, as the rule of the Company “is distasteful to the people of the Colony” due to the fact that they are “merchants as well as governors” and “their self-interest and their duty often clash, and the results, in the injury to the public, only too clearly show the gross incompatibility of functions exercised by them” (ibid.).

The Governor and Council consequently removed Ross from his various public offices, including that of postmaster, sheriff and governor of the jail, on the pretext that “such conduct was incompatible with his position as an Officer of the Government” (Oliver, 1914: 514). He reacted by organising public meetings, several of which were attended by Reverend Corbett who spoke out in favour of Ross’ petition (Bumsted, 2003b: 160). At a meeting in the parish of St. James, Ross declared that the Settlement was “entitled to responsible government” (A.S. Morton, 1973: 858). The Reverend John Chapman of St. Paul’s parish also “called a public meeting and urged the need of a change to a Crown Colony” (ibid.: 859; *Nor’-Wester*).

By buying into the *Nor’-Wester* and associating himself with the Canadian party, Ross, did not endear himself to the Métis. In 1860, an editorial of the *Nor’-Wester* forewarned that “the indolent and the careless, like the native tribes of the country, will fall back before the march of a superior intelligence” (14 January 1860: 2). When Ross accepted the publication of a series of articles in his paper entitled “History of Red River,” that suggested the Half-Breeds were superior to Métis, Riel had sung him, “la chanson du juge Thom” (Bumsted, 2003b: 160) – in other words Riel had threatened Ross’ life (Pannekoek, 1991: 162).⁸² Ross published an apology, stating that the Métis and Half-Breeds “both stand on the same footing, and they ought to regard each other as brethren. We have always viewed them as one people – each interested in the other’s welfare – common heirs of a like ancestry –

⁸² Ross could not have been the author of these articles. The author notably found it “premature to talk of elective institutions for Red River. We cannot bear the expenses of the system to which they would inevitably lead. Our present system, besides giving general satisfaction, is a very cheap one” (*Nor’-Wester*, 14 September 1861: 3). Bumsted (2000: 124) attributes to Ross an article entitled “The Plain-Hunting Business” (*Nor’-Wester*, 15 November 1861: 2), which argued that the hunt was “unworthy of people pretending to a respectable degree of civilization.” Ross’ apology, however, does not refer to this particular article.

collateral branches of the same family – and bound by every consideration of patriotism as well as nationality to uphold and defend each other” (*Nor’-Wester*, 15 August 1861: 2).

Despite Ross’ apology,⁸³ Riel later spoke out against Ross at a public meeting, stating through a translator: “I wish to show and prove that Mr. Ross is a deceiver, misleading the people, for he says that the dissatisfaction with the Company and Council is ‘universal’, whereas the truth is, that among my people, the French half-breeds, there is no such dissatisfaction. Thus I have proved that he is imposing upon you, and is therefore an imposter” (qtd. in Bumsted, 2003b: 160). Unfortunately, it was at the very moment that the Métis had finally won concessions from the Company in regards to representation on the Council, that the Half-Breeds began contesting the HBC’s government in Assiniboia. In Jean-Louis Riel’s political trajectory, one can follow that of his people, first vehemently opposed to the HBC government, then cautiously supportive of Kennedy’s efforts, to finally supporting the ‘old order’ of things.

3.6. Provisional Government

While the Métis spoke of overthrowing the Governor and Council during the struggle with the HBC in the 1840s, and the *Nor’-Wester* evoked a similar possibility in the early 1860s, there were at least two attempts to actually form a provisional government in 1863 and 1866. In addition, the idea of a provisional government may have originated with the Oregon crisis. When the United States gained control of Oregon in 1846, it was only after private U.S. citizens took it upon themselves to form a provisional government in 1843 (Jetté, 2008: 287). In an effort to get the free trader Sinclair out of the Settlement, the HBC asked him to lead a group of Métis to the Oregon Territory in 1841, a feat he repeated in 1854 (W. Morton, 1967: 90). As Sinclair took some Red River Métis with him and the latter settled in the Oregon Territory, rumours undoubtedly followed the fur trade routes across the continent

⁸³ It would seem Riel’s point was well taken, as an apology, undoubtedly written by Ross, was published in the 15 August 1861 edition of the *Nor’-Wester*. Ross claimed, however, that if “our views are at variance with the one-sided article complained of, it is simply because the latter proceeded from another pen” (*Nor’-Wester*, 15 August 1861: 2). As Ross denied authorship of the article of which Riel complained, one should be careful about attributing the sentiments expressed in it to Ross, as does Pannekoek (1991: 160, 162). Bumsted (2003b: 160) states that the incident occurred over an article that appeared in the *Nor’-Wester*, but avoids attributing authorship to Ross. Moreover, in September 1861, the *Nor’Wester* spoke highly of the Métis Councillors, stating that it regarded “as leading men the Bruneaus, the Amlins, the Marions, the Genthons, the Ducharmes, the Fishers, the Deases, the Brelands, the Delormes, and many others too numerous to mention, these are their principal men and they are a credit to the Settlement” (Dorge, 1974a: 19).

and reached the ears of the Métis in Red River. Aside from this, the first ‘provisional government’ that involved the Métis was not in fact established in Red River, but at Big Lake and Lake St. Anne under the auspices of Father Albert Lacombe in the mid 1860s. A certain ‘Viator’ reported in the *Nor’-Wester* (17 March 1864: 3) that on “the 21st Dec. there was a public meeting held here, to consider the necessity of organising some sort of Government.” During the meeting, Lacombe “pointed out the necessity of rules and regulations of some kind or common guidance. Without laws, he said they were like savages in a state of nature. He said the move to organise some simple machinery of local government had his hearty concurrence as did everything which would benefit the settlers and the country” (ibid.). While the meeting seems to have been mainly attended by Usonian and Canadians, Viator concluded his letter with the comment that there “is to be another gathering in March when all the plainhunters come in” (ibid.).

3.6.1. Stewart’s Agitation

The first outright attempt to establish a provisional government came about as part of the political fallout of the Corbett affair. On 29 May 1863, a public meeting was held in the parish of St. James “for the consideration of the present government of the Red River Colony and for considering the advantages to be derived from an Elective Government” (*Nor’-Wester*, 11 June 1863: 2).⁸⁴ John Bourke chaired the meeting while James Stewart was the main speaker.⁸⁵ The latter’s speech is so blatantly inspired by Usonian republicanism that it is worth quoting the beginning of the report at length:

When the American States separated themselves from the jurisdiction of Great Britain, they very justly declared that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness; that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or abolish it. To the view of every unbiased individual we have arrived at such a crisis in Red River now, that an alteration in our present governmental system is absolutely necessary, as our present antiquated form of government is becoming more and more unfit to discharge those duties which are necessary for the welfare of a free people.

⁸⁴ According to Bumsted (1996: 35), there was a meeting where “Stewart was involved with John Bourke (and possibly Corbett) in an unsuccessful bid to take Headingly out of the District of Assiniboia by the creation of an independent ‘provisional government’.”

⁸⁵ A certain John Higgins “also addressed the meeting to the same effect” (*Nor’-Wester*, 11 June 1863: 2).

Regardless of any actual practical consequences, Stewart's speech illustrates to what degree republican discourse was being harnessed in political discourse not only in order to justify resistance to the existing government, but also to establish a popular government. Stewart further commented that, "our Councillors are not elected by the people, and do not depend upon them for their seats in the Council" with the result that, "any one holding any office in our present system of government must consult the interests of the Company, rather than the welfare of the people" (ibid.). We see the twin republican themes of private interests being put before the common good and the 'corruption' of the legislative branch, which is entirely subject to the arbitrary will of the executive branch. Stewart then went on to the issue of public accounts and the lack of transparency, exploiting the Usonian theme of 'no taxation without representation' as well as the republican practice going back to ancient Athens of rendering all public accounts.

Finally, the object of a provisional government was "to get the people to manage their own affairs and keep the public money into their own hands. By a Provisional Government we mean a temporary government formed by the people themselves for the time being until the British Government shall see fit to take the place into their own hands." At the end of the meeting, it was resolved that "we consider the present system of government as utterly unfit for the times and that we urge our brethren throughout the various sections of the Settlement to co-operate with me in forming a government more suited to our wants." Employing the well-known motto of 'no taxation without representation' the resolution specified, "we utterly refuse to pay any taxes of any sort until we see a government formed by the people themselves, by which we shall better know how our affairs are transacted" (ibid.).

It is not entirely sure, as A.S. Morton (1973: 861) claimed, that as "no more is heard of this, it may be assumed that the proposed action was too radical for the Settlement at large." According to W.L. Morton (1967: 112), "[e]ffective government of Red River and the Northwest by the Hudson's Bay Company had ended, as the officials of the government and Company knew." It was in December of that very year that "under the auspices of Archdeacon Cochran an attempt had been made [...] to create municipal institutions"

(Hargrave, 1977: 324).⁸⁶ While magistrates and councillors were elected and a court of justice instituted, the experiment seems to have disintegrated as a result of the turbulence during the first sitting of the court on 6 January 1864.⁸⁷ While not exactly a provisional government, it was the result of the initiative of private citizens who had no authorization from those who claimed sovereignty over the area.

A second and more serious attempt that was made to create a provisional government was attempted in Portage-la-Prairie in 1867. However, the intention was not so much to overthrow the Governor and Council of Assiniboia, as to establish a government in Portage-la-Prairie, which was outside of the District of Assiniboia and therefore outside of the jurisdiction of the Governor and Council. In 1866, a certain Thomas Spence arrived in the Settlement (Hargrave, 1977: 401; A.S. Morton, 1973: 864) and in 1867, after some failed attempts at drumming up support for annexation to the Canadian federation and setting up a legal practice in Winnipeg (Hargrave, 1977: 401-413), he moved to Portage-la-Prairie (*ibid.*: 428), the hotbed of the Canadian faction. He and others made an attempt to establish a ‘Republic of Manitobah’ in December 1867, but it once again foundered on its inability to establish a properly functioning court of law in January 1868 (*ibid.*: 428-431).

What is important to retain from this chapter is that the practical political situation in the Red River Settlement was largely determined by the institutional structures of the HBC, which in itself goes a long way to explaining the political struggles of the thirty-five year period prior to the Resistance. It was during such struggles that republican political ideas were circulated and activated. Thereafter, they formed part the linguistic matrix of the Settlement. This political vocabulary was therefore available to political actors and could effectively be harnessed by the Métis in their confrontation with the Canadian government.

⁸⁶ A. S. Morton (1973: 860) claimed it was in 1857 that Archdeacon Cochrane “organized an informal Council on the model of that of Assiniboia” in Portage-la-Prairie. There were to be “six Councillors, a president, a secretary, a magistrate, and two constables” (*ibid.*).

⁸⁷ For a detailed account of the fortunes of this first provisional government, see Hargrave (1977: 324-329).

4. Behemoth Rising: The Provisional Government of Assiniboia

As mentioned in the Introduction, Pocock (2003: 554) provided two definitions of the ‘Machiavellian moment’, the first of which was “the historic ‘moment’ at which Machiavelli appeared and impinged upon thinking about politics.” In addition, Pocock (ibid.: vii) specified that it is not so much a matter of Machiavelli’s writings as a particular *mode of thinking* about politics. This mode of thinking involves “the presentation of the republic, and the citizen’s participation in it, as constituting a problem in historical self-understanding” (ibid.). This ‘Machiavellian mode of thinking’ is therefore used in a figurative or a paradigmatic sense, in that it was not necessarily through Machiavelli’s writings that classical republican theory was diffused, but through any number of ‘organic intellectuals’ who shared this mode of thinking. In Gramscian terms, these ‘organic intellectuals’ acted as a ‘transmission belt’ (Rojek, 2005: 354), that is as both receptor and transmitter of a particular set of political ideas at the very fringes of the British Empire where the Métis people would mobilise in a struggle for their civil and political rights and liberties. Although the previous chapter goes a long way to surveying the political conventions in the Red River Settlement and demonstrating that republican conventions were available to political actors and were effectively mobilised in political discourse in the thirty-five year period prior to the Resistance, it is necessary to identify more systematically the potential ‘transmission belts’ and the particular republican tradition they may have carried with them based on their country of origin. To this end, five different potential sources of republican discourse in the Red River Settlement will be considered, that of France, Ireland, the United States, Upper

Canada and Lower Canada in order to clearly establish that republican conventions made up part of the linguistic matrix of the Settlement.

Following this, the focus will shift to the first component of Skinner's approach, which involves situating a "text in its linguistic or ideological context" (Tully, 1988: 9). It was no longer the legal text of the HBC *Charter* that caused "a certain range of issues to appear problematic, and a corresponding range of questions to become the leading subjects of debate" (Skinner, 1998a: xi), but the Dominion of Canada's *Act for the Temporary Government of Rupert's Land, 1869*. This *Act* essentially created a government that replicated in many ways the institutions of the Family Compact in Upper Canada and the Chateau Clique in Lower Canada prior to the Rebellions of 1837-1838. In other words, it was the 'logic of situation' – the institutional isomorphism – that goes a long way to understanding why political actors effectively activated republican conventions. Furthermore, the impending replacement of the Governor and Council of Assiniboia undermined the latter's authority, and the political ideas of the Resistance were largely "about contemporaneous legitimation crises caused by shifting political relations" (Tully, 1988: 13-14).

The analysis of this text sets the stage to proceed to the second component of Skinner's approach, which again involves placing the discourse of the Resistance in its practical political context. This involves following the developments that led up to the creation of the Métis National Committee and the subsequent political actions of the Committee up until the meeting of the second Convention in order to allow the reader to situate the specific circumstances in which republican conventions were harnessed. While these conventions will be analysed more in depth in the following chapter, two political documents produced by the Committee – the first *List of Rights* and the *Declaration* that proclaimed the first Provisional Government – will immediately be taken into consideration. The objective at this point, however, is not only to identify republican fragments in these documents, but more to understand them as ideological political manoeuvres within their political context. This chapter then concludes with a brief overview of the second Convention that ended with the creation of a second Provisional Government as it was within the context of the Convention of Forty that many of the speech acts that will be analysed in the following chapter took place.

4.1. Potential Sources of Republican Discourse in Red River

Irish historian Nicolas Canny (2001: 57) noted that the “precise impact of any one, or several, of these texts on the government's conduct is something that can never be measured.” In much the same way, the proportional influence any one particular source among the different potential sources of republican discourse cannot be precisely measured relative to others. Nevertheless, I will consider five different potential sources of republican discourse: Ireland, France, the United States, Upper Canada and Lower Canada.⁸⁸ With all these different possible influences, it is of course impossible to trace the precise origin of a particular convention to a particular republican tradition, much less to trace the exact filiation of an idea to particular authors, as overt references to specific political thinkers are rare in political discourse before and during the Resistance. Besides, to paraphrase Nelson (2004: 201), it may even be that, by 1870, republican discourse had simply entered the common intellectual culture of Assiniboia to such a degree that an endorsement of its claims no longer necessarily implied a familiarity with classical republican authors. By the time of the Resistance, republican linguistic conventions may have simply formed part of the linguistic matrix of the District of Assiniboia.

4.1.1. Usonian Republicanism

It is now generally accepted that many linguistic conventions in the political discourse of Usonian patriots were largely borrowed from seventeenth and eighteenth-century English civic humanism (Bailyn, 1992). From the beginning of the Red River Resistance, the Lieutenant-Governor designate William McDougall and the local newspaper, *The Nor'-Wester*, pointed the finger at Usonians as the source of falsehoods and misinformation that caused the Métis to rise up. On 4 November 1869, McDougall wrote that he had “good reason to believe that there are persons on the American side of the line engaged in fomenting these disturbances, and that there are, also, persons of some influence in the settlement in correspondence with them. Their avowed object is to bring about annexation of the Territory, or some part of it to the United States” (Canada, 1870a: 30). On 5 November 1869, McDougall wrote that he was shown “written evidence that residents of the American

⁸⁸ A sixth potential source is of course nineteenth-century English radicals (See Biagini, 2003; 1996a; 1992). But it is arguably superfluous since many of the conventions of English radicals were picked up by Reformers in Upper Canada (Craig, 1948).

village of Pembina are in constant communication with the leaders of what they call the ‘patriot army’ at River Sale” and noted that the Métis were consulting with the Usonian treasury agent, Enos Stutsman (*ibid.*).⁸⁹ The 29 November, McDougall mentions a Yankton, Dakota newspaper that printed “a communication under date 23rd September, detailing the plans, grievances and demands of the half-breeds, with such particularity as to show that the plot has its chief counsellor, if not its originator, in this Village [Pembina]. One of these conspirators the man Stuttsman [*sic*], lately visited Fort Garry, and is known to be consulting and aiding the Insurgents at that place” (Canada, 1870a: 66). On 7 December, the Canadian surveyor, John Dennis, saw “what may be styled a ‘Declaration of Independence’,” which he saw as “bearing, unmistakably, the mark of American manufacture” (Canada, 1870a: 113).

One such example of possible U.S. republican influences is evident in the fact that, during the Convention of Twenty-Four, Stutsman, “took an active part in advising and otherwise aiding the insurgents” and on November 22, 1869, “during most of the day, remained in deep consultation with the leaders on the French side, when they were not in attendance at the council” (Begg, 1871: 94). On 1 December 1869, the Métis asked the Half-Breeds to adjourn in order to deliberate amongst themselves. Two hours later, a committee produced the first *List of Rights*. “It was currently believed that Stutsman, from Pembina, had a great deal to do with framing the foregoing Bill of Rights” and with “the fact of there being Americanisms in its composition” (*ibid.*: 112). The *List* in fact incorporated four clauses from a Dakota *Bill of Rights* that was penned by Stutsman and published in the *St. Paul Daily Press* a month earlier (Bumsted, 1996: 93-4). Begg (1871: 170) also claimed that there were “evident marks of Americanism” in the *Declaration of the People of Rupert's Land and the North West*.

Of course, ideas would have flowed freely over the border, carried over trade routes by the human circulation. As Flanagan (1991a: 23) remarked, the Métis in St. Joseph and Pembina “were for all practical purposes a southern extension of the colony of Assiniboia.” As mentioned, Usonian newspapers such as the *St. Paul Daily Press* from St. Paul in the Minnesota Territory were read in the Settlement. The Métis freighters, who made frequent journeys between Fort Garry, Pembina and St. Paul, evidently came into contact with

⁸⁹ From 1862 to 1873, Stutsman was also member of the territorial legislature of Dakota representing the Yankton and later the Pembina district (Bowsfield, 2000).

political ideas and institutions in the United States. An anonymous letter that appeared in the *Montreal Herald* on 22 November 1869 reported that nearly all the Métis:

“have made frequent journeys as freighters with their own cattle to St. Paul’s and St. Cloud in Minnesota. They have here seen the rapid improvement of the country, and have not been slow to note the good points in the prevalent mode of Government. [...] Their frequent visits to the United States have given them at least no dislike to democratic institutions while it has engendered that spirit of independence which is sure to be acquired by any inferior race when placed under that form of Government” (Bumsted, 2003a: 38-39).

It is not surprising that *Globe* reporter Robert Cunningham reported that Métis guards had a “pretty comprehensive idea of the political system at work in the States and Territories of the United States” (Bumsted, 2001: 62).

At times, Riel (1985: 81) almost seems to have borrowed directly from the rhetoric of the English country opposition and the *Declaration of Independence* of the United States, using expression such as “La vie, la liberté et le Bonheur.” Later, he appealed to the President of the United States, “to enable us to enjoy the blessings of life, liberty, property, and the pursuit of happiness, under a Government of our own choice, or in union with a people, with whom we may think that we can enjoy these blessings” (ibid.: 117).

4.1.2. Irish Republicanism

Another possible influence is that of the Irish Republican Brotherhood, or Fenians, as they were known in North America (Stevenson, 2006: 141).⁹⁰ Initially, contemporary observer Alexander Begg, after having evoked Fenianism, reported that there was “no feeling in common between the people of this country and the Irish republic” (Bumsted, 2003a: 170). On 11 December 1869, Riel reportedly “disavowed any Fenian element as influencing the French party” (W. Morton, 1969: 226). This may be because, toward the end of December 1869, “several rumours were afloat in the Settlement regarding O’Donoghue, and his connection with the Fenians” (Begg, 1871: 197). Like Begg, Morton acknowledged the presence of Fenian influences during the Resistance, but downplayed O’Donoghue’s Fenianism. Strangely, despite its evident origin in Ireland, William Morton (1969: 86) calls Fenianism “a particular kind of American influence,” and claimed that there “were no Fenians in Red River” and that “there is no firm evidence that W.B. O’Donoghue was one.”

⁹⁰ In addition to a direct influence of Irish republicanism, it is also possible that there was an indirect influence through the Upper Canada Reformers. I shall deal with this in the section covering the ‘Clear Grits’.

William Bernard O'Donoghue (1843-1878) was born in Sligo, Ireland. When he was five years old, his family emigrated to the United States during the Irish famine (Stanley, 2000). He arrived in Red River in 1868 from Port Huron, Michigan and taught mathematics at St. Boniface College while studying to enter the Oblate Order (Bumsted, 1996: 313). Begg (1871: 175) mentioned that O'Donoghue's "influence amongst the French is strong." He was elected member of the Legislative Assembly of Assiniboia for the parish of St. Boniface, was delegate of St. Boniface to both Conventions and treasurer of the executive. O'Donoghue also participated in the redaction of the first three *Lists of Rights* (Stanley, 2000). During the first Convention, he apparently "gave expression to sentiments that were considered rather Fenian" (Begg, 1871: 176). Dennis also reported to McDougall on 17 November that during the meeting of the first Convention on the previous day, "Priest O'Donoghue at one time became very much excited, and quoted the wrongs of Ireland, and stated that the British Government was now shaking to its foundation" (Canada, 1870: 55).

While O'Donoghue denied this at the time (Bumsted, 2003b: 176), he would later attempt to gather a Fenian force in the U.S. to invade Manitoba in 1871 (Pritchett: 1929; Morton, 1967: 86). However, Stutsman wrote to his superior, Hamilton Fish, that this was indeed the case (Howard, 1989: 105). In an excerpt of "a letter addressed to the Secretary of State for the Provinces by a Gentleman resident at St. Paul, Minnesota," dated 26 November 1869, the author stated that there "is a little dash of the Fenian in the leadership. A young Irish priest, named O'Donoghue, [...] being said to supply the brains of the movement" (Canada, 1870: 42). Governor McTavish believed that there was "at least one Fenian in the movement" and named O'Donoghue, who had "joined the malcontents, and [...] made them believe he can procure for them Fenian assistance" (Canada, 1870: 138).

In addition to O'Donoghue, there was Hugh F. O'Lone, another Irish-born U.S. citizen who owned the Red Saloon. There was apparently "a small number of Irish-born residents, headed by William O'Donoghue, Andrew McDermot and the Chelsea Pensioner James Mulligan" (Bumsted, 1996: 24). In his notes of 22 November 1869, Major James Wallace, one of McDougall's councillors-to-be, mentioned a conversation with a certain McKinney,⁹¹ who claimed that "if we fail in our efforts to arrange with Canada, another element would be called in, and the men at the head of this movement just know how to get them, and that is

⁹¹ This was probably Henry McKenney, a delegate to the first Convention for Winnipeg.

the Fenians” (Canada, 1870: 60-61). An anonymous interlocutor informed Wallace that he was “satisfied a number of Fenians are being raised to come into the settlement in the spring” (ibid.: 62), which seems to have led Wallace to the conclusion that the “movement from the first has been of a Republican-Fenian kind” (ibid.). Wallace also mentioned one Hugh Donaldson “who was very violent” (Canada, 1870: 61). An anonymous letter dated 8 November had already informed McDougall that, “a rumour of Fenian aid has been invoked, through the agency of Donaldson probably” (Canada, 1870: 40). There was some talk of Donaldson temporarily replacing O’Donoghue in the Provisional Government during the latter’s trip to the United States (W. Morton, 1969: 240), the objective of which may have been to raise Fenian assistance.

4.1.3. La République française

On 5 November 1869, McDougall (Canada, 1870: 17) wrote that a Métis, as “evidence of the earnestness and patriotic spirit of the insurgents [...] showed me a song in French, copied partly on the Marseillaise, and which was being circulated among the half-breeds of the neighbourhood.” The question is whether there were any French republicans in the Settlement. Frits Pannekoek (1991: 198) claims that, “there are indications” that father Lestanc, an Oblate from France, “had solidly republican sentiments throughout the resistance. He did not, however, attempt to force his position on the provisional government, though it might be imagined that if Riel thought republican thoughts, Lestanc would have offered no objection”. Unfortunately, Pannekoek probes neither Lestanc’s political thought, nor traces of its republican influences on Riel. In any event, given the notorious anticlericalism of French republicanism, it is highly doubtful that the Oblate priest ever thought French republican thoughts.

In his memoirs, Louis Schmidt,⁹² who was the French-language secretary of the Provisional Government, mentioned an ‘old Frenchman’, one ‘Doctor’ Pillard, “who sympathised completely with us” and “came almost every day to the Fort” (Morton, 1969: 468). When the Métis raised their new flag with a white background, he apparently

⁹² Louis Schmidt (1844-1935): Métis of German descent who was educated at St. Boniface College and then sent, along with Louis Riel, to Québec, where he attended Collège de Saint-Hyacinthe and returned to Red River in 1861. He was a delegate for St. Boniface to the Convention of Forty, a member of the committee that prepared the second List of Rights and secretary of the Provisional Government (Bumsted, 1996: 322).

exclaimed, “Comment? Vous avez arboré le drapeau blanc, ce drapeau abhorré et symbole de la tyrannie que j’ai traversé les mers pour ne point voir! Ah! Cela ne vous portera pas bonheur” (ibid.: 588). For a Frenchman, white represented the Bourbon monarchy and, according to Morton, Pillard was a republican (ibid.: note 2).

There was also the presence of Captain Norbert Gay in the Settlement, a “Frenchman who arrived in Red River mysteriously in January 1870, he claimed to be a correspondent for a Paris newspaper” (Bumsted, 1996: 281). Gay claimed that he had served with Garibaldi (Stanley, 1985: 389, note 47). It was also “rumoured that he was a spy, but no one was certain for whom he was spying” (Bumsted, 1996: 281). At some point, Gay “became a loyal Riel supporter and attempted to instil European cavalry tactics into Riel’s few remaining armed horsemen in the spring of 1870.” (Bumsted, 1996: 281; Morton, 1969: 375; Stanley, 1985: 133). When the Franco-Prussian War broke out on 19 July 1870, Gay left the Settlement and returned to France (Stanley, 1985: 389, note 47), although he was still present in the Settlement on 23 August 1870, as he “was part of the party of horsemen led by Riel that made the final reconnoitre of the Wolseley encampment before the expedition officially arrived at the Forks” (Bumsted, 1996: 281). Of his political sentiments, the only remaining testimony is his participation, along with Schmidt, in the writing of the proclamation *To the Inhabitants of the North and the North-West* (Riel, 1985a: 76, note 1).

4.1.4. Le républicanisme des Patriotes

One of the most obvious sources of republican ideology at the time is of course Lower Canada. Louis-Georges Harvey (1997; 2005) has recently written on the republican influences that were present in Louis-Joseph Papineau’s political thought and the platform of the *Parti patriote* prior to the 1837-38 Lower Canada Rebellion. For his part, Allan Greer (1993: 127) initially claimed that the ideology of the *Parti patriote* was “typical of middle-class democratic thought and in line with the traditions of liberalism”. Further on, however, Greer (ibid.: 194) recognised that republicanism had “been there all along in embryonic form,” even if it was only with the crisis of the 1830s that the *Patriotes* moved “to an entirely republican outlook” (Greer, 1993: 194). Harvey (2005: 128) agrees with Greer that it was only in 1831 that the *Parti patriote* adopted an openly republican position, but also finds various traces of republican discourse in the preceding period. For Greer (1993: 139), it was

especially after the Ninety-Two Resolutions that the ‘radicals’ showed “a growing commitment to the ideals of democracy and republican citizenship.”

Another potential source is Jean-Louis Riel, Louis Riel’s father, who was born in 1817 at Ile-à-la-Crosse. His family returned to Lower Canada in 1822 and he eventually studied at the Séminaire de Québec. He did not return to the northwest and settle in St. Boniface until 1838, and was therefore present in Québec during the Rebellion. According to historian Alexander Ross (1957 [1856]: 239):

The Papineau rebellion which broke out in Canada about this time, and the echo of which soon reached us, added fresh fuel to the spirit of disaffection. The Canadians of Red River sighed for the success of their brethren’s cause. Patriotic songs were chanted on every side in praise of Papineau. In the plains, the half-breeds made a flag, called the Papineau standard, which was waved in triumph for years, and the rebels’ deeds extolled to the skies.

The date of Jean-Louis’ departure from Québec and “the appearance of a flag called the ‘Papineau standard’ among the Métis as mentioned by Alexander Ross in The Red River settlement,” led Morton (2000) “to wonder whether the elder Riel had had any part in the rebellion of 1837.” Aside from the flag, Riel “brought with him much talk of Papineau, and of how the new Recorder in Assiniboia, Adam Thom, had written against the French in Montréal and had helped Lord Durham prepare the Report which said that the best fate for the French would be to be assimilated by the British” (MacLeod and Morton, 1974: 135). In any case, Jean-Louis was certainly literate and was very likely aware of the political debates and the arguments of the *Patriotes*. Furthermore, one of the members of a committee organised by Riel to resist the HBC’s monopoly in 1849 was the Métis François Bruneau, who “was a first cousin of Julie, wife of Louis-Joseph Papineau, and a nephew of Pierre Bruneau, member for Chambly, Lower Canada” (Dorge, 1974a: 18).

Apart from the potential influence of his father, Louis Riel himself studied at the Collège de Montréal and, like his father, received a classical education that included Ancient Greek and Latin texts. According to Harvey (2005: 29), the Roman and civic humanist grid of historical interpretation was not foreign to the graduates of French-Canadian classical colleges. Prior to the Rebellions, the “Chouayens s’inquiètent souvent de la grande camaraderie de collège qui lie les membres du clergé aux chefs du Parti patriote. Formés

dans les mêmes pensionnats, ils possèdent un imaginaire commun” (Kelly, 1997: 153).⁹³ One is immediately reminded here that both Jean-Louis Riel and his son Louis Riel were educated to become priests in classical colleges in Québec and of the complicity between Rev. Belcourt and Jean-Louis Riel in the 1840s and of that between Rev. Ritchot and Louis Riel during the Resistance.

Shortly before graduation, Louis Riel was expelled from the Collège and subsequently apprenticed in law while working as a clerk for the well-known *rouge* Rodolphe Laflamme. The latter was “a strong nationalist, a strong anti-clerical and a strong anti-confederate” (Stanley, 1985: 33). As Riel did not leave Montréal until 1866, he was present in Canada East during the debates around Confederation, notably in 1864 and 1865. In addition, from the time Riel left Canada-East in late 1866 until his return to the Red River Settlement on 28 July 1868, he resided in the United States (Stanley, 1985: 34). It is not unlikely that he picked up a few political ideas along the way. If it is true that Riel would later be influenced by *ultramontaine* doctrine, in 1870 his “sympathies and policies were *nationalist* and *Rouge*” (Morton, 1965: xvii).

According to the Métis Auguste Vermette, whose father was a guard at the road block, Reverend Joseph-Noël Ritchot (1825-1905) was familiar with the organisation of the *Patriotes*: “Mgr Ritchot, c’était un homme qui avait fait des études un peu sur les cas constitutionnels. Il avait fait des études spéciales sur les événements de 1837-1838 dans la province de Québec. Ça fait qu’il pouvait donner des conseils aux Métis [...]” (Ferland, 2000: 79). While L.A. Prud’homme (1928) makes no mention of this in his biography on Ritchot, it is entirely plausible. He was born in L’Assomption and would have been almost twelve years old when a large *Patriote* rally was held there in 1837. In Lower Canada, the lower clergy generally empathised with the *Patriotes* (Kelly, 1997: 154) and Ritchot, who was educated at Collège de L’Assomption, undoubtedly inherited and shared their attitude.

For Greer (1993: 129), the political economy of the *Patriotes* “reflected nineteenth-century liberal orthodoxy.” He insists, however, that they should be seen as “political actors grappling with the dilemmas of liberalism,” meaning that “the political and the economic programs of liberalism cannot always be reconciled” (ibid.: 131). The *Patriotes*, he noted,

⁹³ Reverend Louis-Raymond Giroux was in fact a classmate of Riel’s, as was Joseph Dubuc, who would be elected as representative of St. Norbert to the first Legislature of Manitoba. The Church also controlled the Collège St. Boniface, of which Riel was a former pupil, as was probably every other literate Métis.

“were especially concerned about the threat of equal political rights posed by any concentration of wealth, particularly when economic power was allied to ‘irresponsible’ government office.” While there was not a unanimous consensus among them, “on the whole the claims of ‘liberty’ weighed more heavily than the claims of ‘prosperity’. This emphasis [...] is what [...] placed them in a ‘democratic’ camp along with the Jackson coalition of the United States, the English Chartists, and various republican groups in Europe” (ibid.). Harvey (1997: 81) argued that the discourse of the *Patriotes* “was constructed in the language of civic humanism.” He further noted that Lower Canadian politicians had “access to the works of authors from the mainstream of the civic humanist tradition” and that they also “shared in common with most educated westerners of their time a grounding in classical thought and history that in itself provided a basis for the civic humanist view of history” (ibid.: 85). In this latter case, the author specifically takes into account the anti-colonial aspects of republican ideology in the Americas.

4.1.5. Reform and Clear Grit ‘Republicanism’

Finally, there is the influence of the Upper Canadian Reform Party’s ‘republicanism’, although this is hard to measure for several reasons. It is clear that prior to 1837, the Radical Reformers, and notably William Lyon Mackenzie himself, borrowed republican ideas directly from the United States (Craig, 1948). As mentioned earlier, however, to discredit such ideas in the eyes of many, one simply had to label them as being ‘republican’ or ‘American’, a tactic that the Family Compact used that proved effective (ibid.: 341, 343, 346-8). Following the failure of the Upper Canada Rebellion, one would expect that Reformers were probably reluctant to refer to Usonian republicanism, if only for tactical reasons, and would likely claim their ideas were inspired by British radicals rather than Usonian republicans. Nevertheless, such ideas continued to linger in Upper Canada after 1837. Romney (1999: 53) noted that, in order to defy Imperial Parliament’s right to legislate for Upper Canada by rescinding the Constitution Act, 1791, and imposing the Act of Union, 1840, “Upper Canadian Reformers had to resort to American doctrines. There were a batch of these, which colonial patriots of the 1770s had relied in their quarrel with Parliament.” While it is true, as Craig (1948: 333) has pointed out, that in many instances these ideas could have just as easily been borrowed from British radicals as from Usonian republicans,

the issue of Imperial Parliament's right to legislate for the colonies was not one of them. It is evident in the Clear Grit platform of 1850, "which sought to make Canada a complete American democracy with a fully elective government" (Careless, 1948: 35). Once again, however, "one might ask how far the transference of British ideas also operated here, to infuse Grit radicalism with the views of the Chartists and philosophical radicals" (ibid.: 38).

In any case, it would appear that, following the Reform Convention in 1859, the Clear Grits seemed to have become more moderate and tended toward liberalism (Careless, 1948). Robert Vipond (1991: 12) noted that the provincial autonomy movement in Ontario "was associated most closely with the Reform (or Liberal) Party." While he claimed that it was "liberal premises that informed the movement" (ibid.: 148) because it "simply fit in better with the deepest ideals of nineteenth-century liberalism" (ibid.: 10), he nevertheless associates the movement with a "particular claim of community" (ibid.: 3) that involved "self government or political liberty" (ibid.: 10), both of which imply the republican theme of positive liberty. Likewise, Romney (1999: 183) maintains that the Reform movement was "led by urban liberals [...] who harnessed the populist desire for local autonomy to great liberal ideas of the nineteenth century." However, he mentions the influence of both Irish and American patriots of the 1770s and 1780s on the ideological orientation of the Party (ibid.: 53-4). Furthermore, Romney (1999: 27) mentioned the "Clear Grits' quasi-republicanism" as well as the "American remedies favoured by the radicals of the 1830s and their Clear Grit successors" (ibid.: 30). For his part, Peter J. Smith (1997a; 1997b), situates the Reform Party squarely in the republican tradition.

A number of the Upper Canadians who began to trickle into the Settlement in the late 1850s were closely associated to the Reform Party. Furthermore, the Half-Breed James Ross, who was educated in Upper Canada and had worked for George Brown at the *Globe*, undoubtedly shared some of their ideals (Bumsted, 1996: 319). That being said, the *Nor'-Wester* vehemently lambasted George Brown for his criticism of the *Act for the Temporary Government of Rupert's Land, 1869*. What so irked the editors of the local paper was that Brown's criticism basically confirmed what the Usonian had been telling the Métis. In Red River, "the effects of that paper's unfair criticisms and misrepresentations of the ministry, – otherwise the Government, have had a very bad effect. They have been used by the enemies of Canada for an evil purpose. They have strengthened the hands of the enemies of the

Dominion” (*Nor'-Wester*, 23 November 1869: 1). In terms of diffusion, the editors complained that “the remarks and representations of the *Globe* are bandied about and are made extremely useful in sapping the loyalty and good will of the people” (*ibid.*).

It is possible to identify multiple potential exogenous sources of republican vocabulary that could have been diffused in the Settlement, either directly through organic intellectuals that acted as transmission belts or indirectly through the medium of newspapers that were read by the local population. It is therefore perhaps unnecessary to insist on proving that there was any particular source of republican vocabulary, but sufficient to show that, on a balance of probabilities, it was more probable that such language was effectively diffused in the settlement than it was not. It remains, however, to show that such language was effectively activated during the Resistance.

4.2. *Act for the Temporary Government of Rupert's Land, 1869*

When the Imperial Parliament adopted the *British North America Act, 1867*, section 146 provided a means of transferring Rupert's Land and the North-West Territory to the fledgling federation (Appendix I: 277). It was provided that, in the case of Newfoundland, Prince Edward Island, and British Columbia, the Queen could admit them by Order in Council, but only “on such Terms and Conditions in each Case as are in the Addresses expressed” by both their respective Houses and the Parliament of Canada. The admission of Rupert's Land and the North-Western Territory, on the other hand, merely required an address from the Parliament of Canada to admit one or either of them into the Union, “as the Queen thinks fit to approve.” In other words, there was no legal obligation to consult either the Council of Assiniboia or the inhabitants of the territories. The first issue this raises is the right of the inhabitants of the District of Assiniboia to be consulted on the terms and conditions of the transfer. The only legal mechanism that was available to the inhabitants was that of petitioning the Crown, but this did not in any way limit the Crown's prerogative or impose any legal obligations. As the Canadian Prime Minister, John A. Macdonald acknowledged on 16 December 1869, the “people have been led to suppose that they have been sold to Canada, with an utter disregard of their rights and position” (Canada, 1870a: 142).

Ironically, in order to take into account the legal implications of HBC's rights in Rupert's Land, s. 146 was modified by the *Rupert's Land Act, 1868*. This statute prevented the Crown from transferring Rupert's Land to Canada without first accepting the surrender of the HBC's rights "upon such terms and conditions as shall be agreed upon by and between Her Majesty and the Company" (Appendix I: 278) This essentially granted the HBC, like colonial Legislatures, a veto on the terms and conditions according to which it would surrender the territory to the Crown before the latter could transfer it to Canada, something for which s. 146 of the *British North America Act, 1867*, had failed to provide. In other words, a legal person was granted rights that physical persons in Red River were denied. Furthermore, s. 5 of the *Act* specified that Rupert's Land would "be admitted and become part of the Dominion of Canada" on the date mentioned in the Order in Council and that it was only "thereupon [that] it shall be lawful for the Parliament of Canada [...] to make, ordain, and establish within the Land and Territory [...] all such Laws, Institutions, and Ordinances, and to constitute such Courts and Officers as may be necessary for the Peace, Order and good Government of Her Majesty's Subjects and others therein" (ibid.) Again, there was no obligation imposed on Canada to consult the local population, nor any mechanism for the latter to participate in such legislation.

While the Parliament of the Dominion of Canada had no legal right to legislate for Rupert's Land until the Imperial Crown had issued the aforementioned Order in Council, it nevertheless passed the *Act for the Temporary Government of Rupert's Land, 1869* (Appendix I: 277-8). It was perhaps this *Act*, more than anything else, which gave rise to the Resistance. Somewhat like the Usonian Revolution, which began with the question of the British Parliament's jurisdiction in America, the Métis Resistance began with the question of the Canadian Parliament's jurisdiction in the North-West Territories. The *Act* foresaw in s. 2 the creation of the office and appointment of Lieutenant-Governor of the North-West Territories. In a sense the *Act* was typical of British legislation in that it attempted to insure that there were no legal vacuum by assuring the principle of continuity of laws. In this regard, s. 5 provided that all "the Laws in force in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, shall [...] remain in force," but added that this was only "until altered by the Parliament of Canada, or by the Lieutenant-Governor" (ibid.: 278). For its part, s. 6 confirmed that all "Public Officers and

Functionaries holding office in Rupert's Land and the North Western Territory, at the time of their admission into the Union, [...] shall continue to be Public Officers and Functionaries of the North-West Territories with the same duties and powers as before,” but again added that this was only “until otherwise ordered by the Lieutenant-Governor” (ibid.).

The extent of the Lieutenant-Governor’s powers were laid out in s. 2, which provided that he would be “authorized and empowered [...] to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be Necessary for the Peace, Order and good Government of Her Majesty's subjects and others herein” (ibid.). That both the legislative and executive functions were to be combined in a single person is evident when s. 2 further provided “that all such Orders in Council, and all Laws and Ordinances, so to be made aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively” (ibid.). In other words, he was more or less free to govern by decree. To be sure, s. 4 provided that the Governor General “may, with the advice of the Privy Council, constitute and appoint [...] a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order in Council” (ibid.). That being said, there was no legal obligation imposed on the Lieutenant-Governor to do so. In the final analysis, that the ‘privy council’, which in reality meant the executive branch of the federal government, could directly govern the Territory was made evident in s. 3. This article provided that the “Lieutenant-Governor shall administer the Government under instructions from time to time given him by Order in Council” (ibid.) To be sure, s. 7 provided that the *Act* would only “continue in force until the end of the next Session of Parliament,” but Parliament could then just as easily extend its life as replace it, and even in the latter case, there was no guarantee of what kind of governmental institutions they would replace it with.

On 26 June 1869, the *Nor'-Wester* published an article from the 5 June edition of the *Globe* that contained the *Act* (*Nor'-Wester*, 26 June 1869: 2), so its contents were available and known to the population of the Settlement. This single *Act* created the very type of tyrant that English republicans had so feared in the Stuart kings in the seventeenth century. It granted to federal Parliament powers over the British subjects of the Northwest that the Usonian had so vigorously rejected when the British Parliament attempted to exert the

doctrine of Parliamentary Supremacy in her North American colonies in the aftermath of the Seven Years War. It created a potential concentration of power unmatched by the 'Family Compact' and the 'Chateau Clique' or even the Governor and Council of Assiniboia. Not only was there a complete failure to recognize the political rights of the population, but there were also a failure to provide any checks and balances on the Lieutenant-Governor's power to intervene in the civil rights and liberties. That the federal government had no intention of curbing the Lieutenant-Governor's power was evident in a letter Macdonald wrote to Charles Tupper in which he stated that the Lieutenant-Governor "will be for the time Paternal despot, as in other small Crown Colonies, his council being one of advice, he and they, however, being governed by instructions from Head Quarters" (qtd. in A.S. Morton, 1973: 874). The Métis risked losing every single hard-won concession that they had forced out of the Hudson's Bay Company. To this institutional isomorphism, the appropriate reply could only be the reactivation of those republican conventions that had proved so effective in English opposition discourse and Usonian revolutionary discourse and in the Rebellions of Upper and Lower Canada.

Furthermore, the man that John A. Macdonald chose to fill the office of Lieutenant-Governor was none other than William McDougall. As Minister of Public Works, McDougall had been responsible for the building of Dawson Road between Lake of the Woods and Winnipeg, the very project that Simon James Dawson had advised in his report following the Hind expedition almost nine years earlier (Stanley, 1985: 135). In April 1868, the movement Canada First was formed to promote annexation and Canadian nationalism (Bumsted, 1996: 39). McDougall appointed one of their members, Charles Mair, as accountant and paymaster for the construction of Dawson Road. McDougall had so stubbornly refused to recognise the HBC's *Charter* that he sent in government officials to build the road without asking for permission from the HBC (A.S. Morton, 1973: 866). Mair also became the Northwest correspondent for the *Globe* and eventually moved into the house of John Christian Schultz (Bumsted, 1996: 41).

In 1861, Dr. Schultz followed his half-brother, Henry McKenney, to form a partnership with him. McKenney had arrived in the Settlement from Canada in 1859 and established McKenney & Co. and the Royal Hotel (Hargrave, 1977: 200). Schultz soon became the nucleus of a group of Upper Canadians who called themselves the 'Canadian party' and

aggressively promoted annexation in the Settlement and persistently attacked the legitimacy of the HBC. I will refer to them as the ‘Canadian faction’ due to their involvement in land speculation and the divisive role they played in local politics. Schultz did not endear himself to the Métis, as the Canadian faction’s “principal cry seemed to be the superiority of Canadians generally over the Red River settlers” (Begg, 1871: 21). Dr. Schultz, “who professed to be the leader of the party, openly declared that the half-breeds of Red River would have to give way before Canadians, and that the country would never succeed until they were displaced altogether” (Begg, 1871: 21). When Ross left the *Nor’-Wester* in late 1863 (*Nor’-Wester*, 17 December 1863: 2), Schultz eventually bought into the paper in March 1864 (Hargrave, 1977: 321). In March 1869, Schultz visited Toronto and “was made the sixth member of the ‘Apostles’, thus formally cementing the relationship between Canada First and the Canadian Party of Red River” (Bumsted, 1996: 44). Shortly thereafter, on 23 April 1869, Shultz wrote to McDougall’s brother that:

The greatest danger from the Hudson Bay influence will be in giving the franchise to our people at once. Theoretically fair and even necessary it is fraught with very great dangers till our people feel the change and we get an immigration of Canadians on Canadian principles. Our people will be satisfied with simply the local town and country self-government and to have no elective choice whatever over the necessary officers for these positions (qtd. in Stanley, 1985: 55. Emphasis added).

On 28 September 1869, McDougall was appointed Lieutenant-Governor of the North-West Territories. Again, this was made known to the public of Assiniboia in the October 1869 edition of the *Nor’-Wester*. Although “McDougall interpreted his task in basic terms, to ‘start the new machine’ that would liberate vast lands and their inhabitants from a dark period of ‘serfdom’ under HBC rule” (Zeller, 2000), he was seen as rendering that ‘serfdom’ worse than ever. While the *Nor’-Wester* (26 June 1869: 2) had earlier expressed optimistically that the Territory would soon have an elected assembly, McDougall himself “saw no possibility of granting political power to the new territories until ‘we get a settled Canadian population to work upon’” (Zeller, 2000). In addition, it “was pretty well known that the then Minister of Public Works held frequent communication with the leader of the so-called ‘Canadian party’” (Begg, 1871: 22). Furthermore, “[k]nowledge of McDougall’s nationalistic vision and his links to Charles Mair and the aggressive Canada First movement preceded him to the Red River settlement, where like-minded easterners, such as John Christian Schultz, had already formed the nucleus of a Canadian party” (Zeller, 2000). Now

armed with the Crown's power of appointment, McDougall would be in a position not only to dismiss any Métis representatives on the Council and in the police force, but also to replace them with members of the Canadian faction. As Begg so astutely put it, it was a "fine Family Compact idea" (Bumsted, 2003a: 89).

Certainly, the *Nor'-Wester* attempted to reassure the population, declaring that the "new Council will have a few members appointed from the Eastern Provinces, but one-half, at least, is to be appointed here" (*Nor'-Wester*, 23 November 1869: 1). It is true that McDougall's instructions charged him to "submit the names of several of the residents of character and standing in the Territory, unconnected with the Company, qualified to act as Councillors, giving particulars respecting them, and stating their comparative merits" (Canada, 1870a: 2). This was incidentally precisely the same method that Governor Simpson had used following the Sayer trial. There was even less of a guaranty now than there was then that any of the councillors would be Métis, or even if they were, that Ottawa would approve of them. The *Nor'-Wester* furthermore claimed the "new Council is not to have Legislative or law-making powers. It is called an Administrative Council, and will only administer the laws already made" (*Nor'-Wester*, 23 November 1869: 1). While this was strictly speaking true, the editorialist neglected to mention that s. 2 of the *Act* granted the Governor legislative powers. The editor of *Nor'-Wester* then used scare tactics by raising the question of footing the bill of a provincial government. He asked whether "it would not be wiser to encourage an emigration to help us ere we strike out for ourselves" (ibid.). Moreover, the *Nor'-Wester* appealed to the fear on the part of property owners that non-property owners would be in a position to tax them. Finally, the editor claimed that the "people can depend upon having an Elective Council as soon as possible after the next sitting of Parliament shall end" (ibid.).

The reassurances of the editor of the *Nor'-Wester*, Walter Robert Bown, who was so closely associated with Schultz and the Canadian faction, did nothing to allay the fears of the Métis. This only confirmed the representations of their condition under the jurisdiction of the Dominion as being worse than what they were under that of the HBC. It confirmed that the Métis were right to fear that there would be no elected assembly until such a time as a flood of immigration assured that they would only be a minority and be in no position to control it. A large portion of the Métis population would have again seen this as a confirmation that

they were not to have full political rights like other British subjects. In a letter dated 6 October 1869 and that was published in *Le Courrier de Saint-Hyacinthe* on 30 October 1869, Riel (1985a: 18) wrote that McDougall “devait arriver avec un conseil formé en dehors du pays. Nous devons, il est vrai, avoir dans ce conseil certains membres des nôtres; mais assez peu nombreux pour n’être capable de rien dans les décisions de ce conseil.” He warned the federal government: “Un tel Conseil choisi et formé en dehors du pays ne devra pas espérer, nous pensons, voir ses décrets bien respectés” (ibid.).

4.3.1. The “Quasi-Citizen’ Status of the Métis

What lurks behind the *Act* is the status of the Métis as ‘quasi-citizens’, that is, the commonplace belief that, as ‘half savages’, they were incapable of governing themselves. Begg deplored the fact that “Canadians coming into this country [...] are impressed with the idea that half-breeds are a sort of half-and-half specimens of humanity, hardly entitled to the privilege of being called rational beings” (Bumsted, 2003a: 127). On 4 December 1869, the federal government commissioned Rev. Jean-Baptiste Thibeault, who had spent thirty-seven years in the Northwest as a missionary, as a special envoy to represent the views and policy of the federal government. In his instructions to Thibeault, Joseph Howe, in his capacity as Secretary of the State for the Provinces, insisted that “at no time was the absurd idea entertained of ignoring the municipal and political rights of the people of the North-West.”⁹⁴ No sooner had he written this, than he brought to Thibeault’s attention that all “the Provinces of the British Empire which now enjoy Representative Institutions and Responsible Government have passed through a probationary period, till the growth of the population, and some political training, prepared them for self-government.” He then cited the case of the United States where “the Territories are ruled from Washington till the time arrives when they can prove their fitness to be included in the family of States.” Then, completely ignoring that the Settlement had been kept in a ‘probationary period’ for the last fifty years, Howe thought it was “fair to assume that some such training as human societies require in all free countries may be useful, if not indispensable, at Red River” (Canada, 1870: 46). Similarly, when Macdonald saw the first *List of Rights*, he wrote to Donald Smith on 3

⁹⁴ Similarly, the first *Indian Act* created band councils, which were essentially municipal governments, to provide Amerindians with ‘political training’, not with a view to preparing them for ‘self-government’, but to prepare them for the franchise and their assimilation into the white majority.

January 1870 that some of the claims were “altogether inadmissible,” and notably that fully elected, representative institutions would only be granted when “the Territory is in a position to bear the burdens and assume the responsibilities of such institutions” (qtd. in Sprague, 1988: 49). In other words, the federal government was not prepared to grant full political rights to the population of the Red River Settlement, at least not so long as the Métis and Half-Breeds formed the majority of the population.

Before the House on 9 May 1870, McDougall admitted that the *Act for the Temporary Government of Rupert's Land* involved an ‘autocratic system’ that “did not recognize in any way the political rights of people of that country, or rather their right to a voice in the formation of their government” (Canada, 1870b: 1452). It was nevertheless an error to propose “a measure calculated for people accustomed to Government” when the Métis in Red River were “just emerging from a condition of serfdom” (ibid.). The scheme of Government in the Manitoba Bill “was an obscure and defective one” since it “could not be worked out by an ignorant people” (ibid.: 1453). This very same McDougall, however, opposed the recognition of the Métis’ share of Indian title on 9 May on the grounds that as “soon as the Indian mingles with the white, he ceases to be an Indian, and the half-breeds were just as intelligent and well able to look after their own affairs as any white man” (ibid.: 1447). No sooner had he said this than he claimed “agriculture was not the natural pursuit of those men. They were hunters and trappers” (ibid.). What McDougall actually thought of the Métis were revealed when Archibald reproached him for having described the Settlement as “a country of semi-savages” (ibid.: 1427). In an effort to deprive the leaders of the Resistance of their political rights, McDougall also moved that “no person arrested for any felony shall be entitled to vote” (ibid.: 1498). When MP Le Vesconte wished to know if McDougall was stigmatising the “people of Manitoba as thieves and robbers,” the latter replied “if the people up there were afraid of being excluded by such a clause then they were not fit to be entrusted with self-government” (ibid.: 1501).

When McDougall interrupted Macdonald to laugh at the idea of a two-chamber Legislature for Manitoba, the latter rebuked him for his hypocrisy, reminding him that as “a true liberal, he will not object to the people having a voice in the settlement of their own Constitution and to determine whether they shall have one or two chambers or even three if it suits their purposes” (ibid.: 1300-1301). Ironically, MP Mills approved of the two chamber

Legislature “on the ground that they were likely to have for some time to come a very incompetent Legislature” (ibid.: 1426). When Cartier stated that the Legislative Assembly of Manitoba “must be placed on the same footing as the Legislatures held in other Provinces,” and that “neither at Québec nor Toronto had any one dared to prescribe rules for those Assemblies, but a different course was proposed by the hon. Gentleman with regard to Manitoba” (ibid.: 1498), he then asked why McDougall did “not state his reasons for doing so” (ibid.). However, Cartier did not bother to mention the exceptional status of Manitoba concerning federal control of public lands. The leader of the Liberal opposition, William Mackenzie, seemed to hint at this anomaly when he noted that some of the provisions of the Bill “conflicted with the terms of Union agreed upon in the Confederation Act,” notably “those clauses in which the agreements in the Act were applicable to all provinces” (ibid.: 1362). In this regard, the “federal government, although it partially granted Riel’s demand for immediate provincial status, retained control of public lands and natural resources, thus making Manitoba a second-class province dependent on federal subsidies to carry on its government” (Flanagan, 2001: 625).

The double standard was all the more evident when one considers the conditions in Upper Canada when it was carved out of the Province of Québec and made into a separate Crown colony by the *Constitution Act, 1791*. On 2 May 1870, Francis Hincks reminded the House that Cartier “had correctly pointed to the fact that in 1791 when Upper Canada was made a Province its population was less than the population of the North-West now.” Cartier again reminded the House on 9 May 1870, that the “original inhabitants of Upper Canada were only 10,000 when the Province was formed” (Canada, 1870b: 1457). The double standard was also evident in terms of language rights. Whereas it was impossible for Québec to unilaterally amend the *Constitution Act, 1867*, in regards to the denominational schools and the language rights of the Anglophone minority, the “provisions to satisfy the mixed population of the country,”⁹⁵ that is Catholic schools and French language rights, were to be “quite in the power of the Local Legislature to deal with” (ibid.: 1302). In other words, once

⁹⁵ During the debates in the House, many MPs seemed to think the ‘mixed-bloods’ or ‘halfbreeds’ were synonymous with French and Catholic, and seem to have ignored the existence of the Scots Half-Breeds.

the English-speaking formed the majority and gained control of the Legislature, they would be free to rescind any French-language rights.⁹⁶

4.4. The Métis National Committee

The first sign that the Métis were going to hold a meeting and form a provisional government was an article in the *Nor'-Wester* in early February 1869 (*Nor'-Wester*, 19 February 1869: 1; A.S. Morton, 1973: 868). It was reported that:

[...] there is a movement on foot among the leading men of our French speaking population, having for its object the institution of an independent government for themselves. They are tired of the Hon. Company's management of affairs and intend to throw off allegiance toward her, and obey no laws but those of their own making. The movement is being carried on quietly, but in May next, they proposed to organise and elect some prominent man among them as President. The meeting is appointed to take place at Point a Coupee (*Nor'-Wester*, 19 February 1869: 1).

While no meeting was actually held in May, the Métis were already forming patrols at the beginning of July to prevent the Canadian surveyors access to their lots (Stanley, 1985: 55). On 24 July 1869, the *Nor'-Wester* published an article that called for a public meeting in the Court House on 29 July and was signed by William Dease, Pascal Breland,⁹⁷ Joseph Genton and William Hallet. (Begg, 1871: 85).⁹⁸ The *Nor'-Wester* reported that William Dease “stated that the object of their assembling there to-day was to consider the recent transfer of the country by the Hudson's Bay Company to the Canadian Government, and to call in question the right of the Company to dispose of any territorial claims without the consent of the natives of the country” (Begg, 1871: 86-87).⁹⁹ In effect, during the meeting, Dease claimed that, “it was necessary for the [Hudson's Bay] Company, before selling their rights, to have the consent of the half-breeds, as they were natives of the soil and were descended from the original possessors” (ibid.: 87). When Hallet was asked to speak, he stated that the

⁹⁶ The Legislature effectively repealed language rights in 1890. However, due to doubts about the constitutionality of creating seats for the new province in the Senate, the *Manitoba Act*, was retroactively confirmed by Imperial Statute in 1871. In *Forest v. Manitoba (Attorney-General)*, [1979] 2 S.C.R. 1032, the Supreme Court of Canada found that this had the effect of constitutionally entrenching language rights and declared the 1890 provincial statute unconstitutional.

⁹⁷ According to Begg, Breland denied having signed the petition (Begg, 1871: 89).

⁹⁸ Three of these individuals had spoken in favour of Métis land claims based on derivative title at the meeting in 1860 and Breland had also taken this position at the “indignation meetings” in 1861.

⁹⁹ I have dealt with the issue of claims to Indian title elsewhere (O'Toole, 2008; 2010) and will concentrate on other matters here.

goal of the meeting was “to consider whether the land belonged to the HBC or to the half-breeds and Indians” (ibid.; Bumsted, 1996: 47).

When Governor McTavish was requested to attend the meeting to answer the question, the latter replied, “that the Company had received from the English Government a charter of the country, and that the late sale embraced only the rights contained in the charter, whatever they were” (Begg, 1871: 87-88; Bumsted, 1996: 47). According to Begg (1871: 89), however, Dease also put forward a resolution at the meeting that “the half-breeds should seize upon the public funds of the Settlement and then set up an independent government of their own to treat with Canada or any other country.” Ironically, John Bruce, the future president of the first provisional government, “castigated Dease for advocating revolt” (Ens, 1994: 117). If Bruce and Riel opposed Dease on this issue of a provisional government, it should not be concluded that Riel disagreed with Dease on the issue of land claims, as Ens (1994: 122) suggested. Indeed, Governor McTavish wrote that there “was general agreement on the claim of Indians and Métis to the lands of the North-West and to compensation” (Morton, 1969: 33, note 1). The programme of the Métis was therefore already articulated at this point, namely that the land belonged to the people, that they had never sold their rights, that they had not been consulted on the transfer of the territory to Canada and that they should set up a provisional government in order to negotiate the terms and conditions of the entry of the territory into the dominion.

Less than two weeks after the meeting in the Court House on 29 July, the Governor wrote on 10 August that he expected that “as soon as the survey commences the half-breeds and Indians will at once come forward and assert their right to the land and possibly stop the work till their claim is satisfied” (Stanley, 1961: 56; Bumsted, 1996: 49). This effectively occurred five days later when a Métis patrol stopped a group of surveyors headed by Major Boulton on 15 August 1869 (Riel, 1985a: 332; Trémaudan, 1984: 163-164). On 20 August 1869, John Stoughton Dennis arrived in the Settlement as an agent for the Canadian government in order to lead the survey of the territory in advance of the anticipated transfer and subsequent settlement (W.L. Morton, 1869: 38). Like Charles Mair, he also immediately moved into the house of John Christian Schultz, the leader of the Canadian faction

(Bumsted, 1996: 48).¹⁰⁰ After only a day in the Settlement, Dennis wrote to McDougall on 21 August that the Métis “have gone so far as to threaten violence should surveys be attempted to be made” (Canada, 1870: 6).

It would appear that the Métis were already discussing the idea of preventing McDougall from entering the Settlement in early September (Stanley, 1985: 59).¹⁰¹ Louis Riel is said to have begun organising meetings in St. Norbert and St. Vital in late September (Prud’homme, 1928: 67). Riel apparently felt that it was necessary “to persuade the people to do something more than organize patrols to watch the possible claim-jumpers” and convinced the Métis “that a central committee for the whole colony should be formed” (Stanley, 1985: 58). It was sometime before 6 October 1869 that a first assembly of Métis delegates from each Catholic parish was held. On that day, Riel (1985a: 18-19) wrote to *Le Courrier* of St. Hyacinthe that: “Chaque paroisse [catholique] s’est choisie deux représentants afin de prononcer en son nom sur les procédés du gouvernement canadien vis-à-vis le peuple de la Rivière-Rouge” before speaking of “les résolutions que ces représentants ont passées dans leur première assemblée.” It was shortly after Riel wrote this letter that he and other Métis interrupted the work of the surveyors a second time on 11 October.

On 17 September, McDougall had requested the militia department to send to Fort Garry 100 Spencer carabines and 250 Peabody muskets, equipped with bayonets and accoutrements, along with 8,000 to 10,000 rounds of suitable ammunition to be used by “such Police and Volunteer Force as may be necessary” (Bumsted, 1996: 51). On 16 October, McTavish wrote that the newspapers had reported “about his bringing up a number of stands of arms – breach loaders – these people will never learn – it will be reported here that arms are coming and circulated that it is to force the half breeds to submit” (qtd. in Bumsted, 1996: 55). That same evening, the Métis formed the *Comité national des Métis* at Ritchot’s residence and elected John Bruce president and Louis Riel as secretary

¹⁰⁰ Macdonald wrote to McDougall on 24 November 1869 that Dawson was “strongly of the opinion that much of the trouble has arisen from the injudicious conduct of Snow in allying himself with the Schultz party, and Mair’s exceedingly indiscreet letters. He says he fears that Stoughton Dennis put himself too much in the hands of those people” (qtd. in W. Morton, 1969: 22, note 1).

¹⁰¹ It was Rev. Dugas who reported this to Bishop Taché on 4 September 1869. So much for Dugas’ (1949: 115) belated claim that it was “M^e Ritchot et moi qui avons non seulement dirigé, mais poussé à cette résistance au gouvernement canadien. [...] Jamais les métis ignorants n’auraient pu songer à revendiquer des droits constitutionnels si M^e Ritchot et moi ne le leur eussions faits connaître. Sans Ritchot et moi, le mouvement reste inexplicable.”

(Prud'homme, 1928: 67-68).¹⁰² Riel (1985a: 299) later confirmed McTavish's concerns when he wrote that "comme principal titre à notre respect, un lot considérable de carabines les suivait tous [McDougall and his Council] de près. Les Métis alarmés se formèrent en Comité National." The following day, on 17 October, the Métis set up a roadblock at the crossing of the Rivière Sale on the trail to Pembina to prevent the Lieutenant-Governor designate from entering the territory (Dugas, 1905: 53; Prud'homme, 1928: 68).¹⁰³ The *Montreal Herald* reported on 24 November 1869 that Riel gave another speech from the Cathedral steps on 31 October in which he "said their opposition to impending changes must begin somewhere, and it had been determined to commence it by opposing the entrance of the future Governor" (qtd. in W. Morton, 1969: 39, note 2).

Among rumours that the Canadian faction was going to seize Lower Fort Garry (Prud'homme, 1922: 30; Riel, 1985a: 300), the Métis pre-empted them and entered en masse on 2 November (W. Morton, 1969: 57). At this point, according to Rev. Giroux' memoirs, McTavish purportedly told Riel, "qu'il ne se considérait plus gouverneur de la colonie, qu'ils avaient l'autorité et que les Métis représentés par le gouvernement provisoire devaient voir à la paix et à la sécurité des propriétés et de celles de la compagnie" (Prud'homme, 1922: 31). Ritchot also reported that sometime between 27 and 30 October, when he asked McTavish "if the Government of Assiniboia existed, the Governor looked somewhat embarrassed, and said he preferred not to give an answer" (Elliot and Brokovski, 1874: 78). Ritchot "had another conversation about the beginning of December with the Governor about the subject of the proclamation of Governor McDougall, which Governor McTavish complained of from the beginning, and declared himself completely powerless to remedy the evils of the country" (ibid.: 78-79). The French-language Secretary of the Provisional Government, Louis Schmidt, claimed that following McDougall's *Proclamation*, McTavish "published in his turn the dissolution of the government of Assiniboia" (W. Morton, 1969: 466). While there "is no evidence for this statement, McTavish undoubtedly believed, as did everyone, that his government had come to an end" (ibid.: note 3). McTavish did not officially dissolve

¹⁰² In his deposition to a Parliamentary Committee, Ritchot recalled that it was sometime between 15 and 20 October 1869 that the Métis National Committee was formed (Canada, 1874: 69; W. Morton, 1969: 47). Bumsted (1996: 55) gives the specific date of 16 October.

¹⁰³ This was in Ritchot's parish of St. Norbert (W. Morton, 1969: 47).

the Council, but the corroborated evidence of Ritchot and Giroux suggest an unofficial recognition that the Council of Assiniboia no longer existed.

It may very well be that the Métis National Committee already formed a provisional government at this point. McDougall's secretary, Joseph Albert Norbert Provencher (1843-1887)¹⁰⁴ reported on 3 November 1869 that he was told, "that a new Government was already organized, that a new constitution had been drafted, [and] that elections had taken place" (Canada, 1870b: 28). McDougall wrote on 4 November 1869 that Lépine and Lavallée told him that "their authority was the Government" and specified that it was the "Government we have made" (Canada, 1870b: 30). On 6 November, an anonymous writer who called himself 'Spectator' reported in the St. Paul *Daily Press* that the "Insurrectionary forces [...] are now completing the organization of their provisional Government, to supersede the Government *de facto* of the Hudson's Bay Company" (Canada, 1870: 74). On 22 November 1869, an anonymous letter from 'Nor'West' reported that he heard "the French half-breeds have formed themselves into a republic, and have elected a President and Vice-President" (Bumsted, 2003a: 71). That being said, McTavish wrote to McDougall on 9 November that those who told the latter on 2 November they had established "a Government of their own" did so "rather prematurely" (Canada, 1870a: 53).

While Oscar Malmros (1826-1909), who had been appointed Usonian Consul in Winnipeg on 1 July 1869, did not take the Métis National Committee to be a provisional government, he nevertheless anticipated that a "Provisional Government will be proclaimed in a short time" as early as 6 November 1869 (Bowsfield, 1968: 87). In practice, however, 'Spectator' wrote in the St. Paul *Daily Press* of 8 November 1869, if "a citizen or outsider is found drunk or disorderly he is promptly arrested and confined until sober and quiet. Never before has there been such complete order, and never before has there been such perfect security to person and property in the Red River settlements, as at the present time" (Canada, 1870a: 73). Similarly, three days before the provisional government was officially declared, Malmros reported on 4 December 1869 that the "revolutionists fulfil the principal function

¹⁰⁴ Alfred Norbert Provencher (1843-1887) had articulated in the law office of William McDougall and in 1869 was appointed secretary to McDougall (Bumsted, 1996: 317). He was a nephew of Rev. Joseph Norbert Provencher (1787-1853), who had arrived in Red River as a missionary in 1818, was consecrated bishop of Juhopolis in 1822, and afterwards nominated bishop of the North-West and St. Boniface in 1852.

of a government, protection of persons and property in a highly satisfactory degree” (Bowsfield, 1968: 87).

4.5. *The First Convention*

It was with the objective of forming an alliance with the Half-Breeds that the Métis National Committee posted a ‘Public Notice to the Inhabitants of Rupert’s Land’ on 6 November 1869. In it, the “President and Representatives of the French-speaking population of Rupert’s Land in Council” announced that they “do now extend the hand of friendship to you our Fellow Inhabitants, and in doing so invite you to send twelve Representatives [...] in order to form one body with the above council consisting of twelve members to consider the present political state of this Country, and to adopt such measures as may be deemed best for the future welfare of the same” in the Court House on 16 November 1869 (Riel, 1985a: 22). Representation was largely based on the parishes, with one representative coming from each of the ten Protestant parishes and two from the Town of Winnipeg. As W.L. Morton (1937: 100) astutely observed, “twelve was the number of the council of the buffalo hunt.”

When the first Convention, or Convention of Twenty-Four, met on 16 November 1869, the English demanded that a new president and secretary be elected. The Métis replied that they would accommodate such demands once, “by a frank and cordial understanding the representatives of the two sections of the population, or at least the Majority, should agree on a line of conduct to follow in the existing circumstances” (W. Morton, 1969: 420). The Métis further announced that “for that purpose it is important the representatives of both languages without delay put before the assembly the instructions they have received orally or otherwise from their constituents” and that “there is a need that the true intentions of the two sections of the Population should be fully known and understood to establish in what they were alike and in what opposed, in what understanding was possible” (ibid.: 420-421).

Initially, the two sections could not be more opposed. Ross repeatedly accused the Métis of being in rebellion against the Crown. He took the position that the Métis should lay down their arms, allow the Lieutenant-Governor designate to enter the territory and place any complaints they may have before him. Riel replied that if they did so, it would already be too late and pleaded for unity. The possibility of finding some middle ground was somewhat compromised when Governor McTavish issued a Proclamation during the Convention

wherein he accused the Métis of having committed unlawful acts and charged them to “immediately disperse themselves and peaceably depart to their habitations” (W. Morton, 1969: 169). Nevertheless, a movement began among some of the English representatives to support the French in their demand for their rights, most notably in terms of political rights (W. Morton, 1969: 178).

When the Council met again on 23 November, Riel announced to the English-speaking section that the Métis wanted “to form a provisional government for our protection and to treat with Canada” (ibid.: 425; 181). The representatives replied that they would have to consult their respective parishes and the Convention adjourned until the 1 December (ibid.: 182; 427).¹⁰⁵ On 26 November, some of the delegates to the Convention along with other private citizens met and came up with a compromise that would “allow the old HBC rule to go on as it has been accustomed to in the shape of a legislative council and that the people elect an executive council whose duties would be to treat with the Canadian government as to the terms on which this country should be annexed to Canada” (W. Morton, 1969: 185). At a meeting that evening, Riel responded that it was necessary to form a provisional government “because the present rule was too weak” (W. Morton, 1969: 185).

On the following day, “all was done that could be to induce Riel [...] to agree to the proposition of allowing the H.B.C. to go on as government until the Proclamation is issued and in the meantime for both sides of the settlers to unite in one body through the representatives in the form of an executive council or committee to seek for the right of the people. Nothing definite could be got out of Mr. Riel” (Morton, 1969: 187). That same evening, another meeting was held at George Emerling’s Hotel. Following the meeting, “an assurance was given by Mr. Riel and Mr. Bannatyne [...] to the effect that the French would agree to meet the English side on equal terms in forming an executive council to lay the claims of the people before Canada and that in the meantime the H.B.C. rule should be recognised by all as the government of the country” (W. Morton, 1969: 188). On 30 November, however, Riel “retracted from his promise in favor of an Executive Council and insisted on the formation of a provisional government and the downfall of the H.B.C. rule – the latter because it was dead already & therefore not in force nor able to protect the people” (W. Morton, 1969: 190).

¹⁰⁵ In Riel’s notes, this took place on 24 November.

It is important to understand Riel's position. First of all, as McTavish had admitted, the HBC had negotiated and surrendered whatever rights it had in the territory. In the deal that had been reached between the HBC and Canada in March 1869, it was the people who had been left out, not the HBC. To have simply created an elective council under the authority of the HBC would have meant its legitimacy came from the *Charter* and not from the people. In any case, the very next day, on 1 December, McDougall issued a *Proclamation* declaring Canadian dominion over the territory. As everyone believed that the Council of Assiniboia no longer had any legal authority, in their minds there was no longer any existing government on which the elected executive council could have based its legitimacy.

4.5.1. The First *List of Rights*

As Siobhán Harty (2005: 68) has observed, “actors will be unable to advance their agendas for institutional change unless they have concrete ideas about the form of the new institutions that they seek to set up. Ideas are also necessary in order to build coalitions for change in democratic societies.” The first sign of the Métis putting forward ‘concrete ideas about the form of the new institutions they sought to set up’ was a list of rights appeared in a Yankton, Dakota newspaper. According to McDougall, it printed “a communication under date 23rd September, detailing the plans, grievances and demands of the half-breeds.” (Canada, 1870a: 66). The Métis must have had an idea of the terms and conditions on which they would accept annexation at this point, since the idea of presenting a list to McDougall was already part of their programme. On 22 October, an unknown deponent swore an affidavit before William Cowan, J.P., that a mounted party of twenty set out to Scratching River “accompanied by a man named Riel, whose intention is to stop the Governor, and submit to him several questions, or rather demands, in the event of his refusing which, he is to be warned not to proceed” (Canada, 1870a: 10). In its 26 October edition, the *Nor'-Wester* mentioned “a long list of demands [...] the most of which are too preposterous to entertain” but did not provide any details as to their content (*Nor'-Wester*, 26 October 1869: 1). The article nevertheless mentioned that there was a “flying rumour [...] that the French intended to stop Gov. McDougall en route to the Settlement from Pembina, and to prevent him from coming in at all, unless indeed he would accede to a long list of demands” (ibid.). A further indication of the content of Métis demands came from ‘Spectator’, who claimed in the 1

November 1869 edition of the St. Paul *Daily Press* that they would demand: 1) the right to elect their own legislator; 2) the legislature to have the right to pass all laws of a local nature by a two-thirds vote over veto of the Executive; 3) a free homestead and pre-emption law; 4) portions of the public lands for schools, roads and bridges; and 5) treaties with the Indians (Morton, 1969: 69, note 1). As we have seen, it was Enos Stutsman who penned this *Bill of Rights* (Bumsted, 1996: 93-4).

A different ‘list of rights’, as A.S. Morton (1973: 877) called it, was sent to John A. Macdonald on 18 November 1869 from John Young Bown, a federal MP from Ontario. Undoubtedly, John Bown obtained this information from his brother, Walter Robert Bown, the owner of the *Nor’-Wester* and member of the Canadian faction (Flanagan, 1983b: 324, note 3; 2000: 199, note 2; Bumsted, 1996: 79; 2001: 58). While it is true that where Walter Bown himself “had gotten this information was not made clear” (Bumsted, 1996: 79), it is certainly reasonable to assume that “it was probably another ‘unattributed’ statement from Riel or another of the Métis leadership” (Bumsted, 2001: 40). According to Bown’s letter, the Métis demanded:

- 1 That the Indian title to the whole territory shall at once be paid for.
- 2 That on account of their relationship with the Indians a certain portion of this money shall be paid over to them [the Métis].
- 3 That all their claims to land shall be at once conceded.
- 4 That [2]00 acres shall be granted to each of their children.¹⁰⁶
- 5 That they and their descendants shall be exempted from taxation.
- 6 That a certain portion of lands shall be set aside for the support of the R.C. Church and the Clergy.
- 7 That Dr. Schultz and others shall be sent out of the Territory forthwith (Morton, 1973: 877)

When the Convention of Twenty-Four finally met again on 1 December, it was under the uncertainty created by McDougall having issued his *Proclamation*. Riel again insisted on obtaining a guarantee of their rights from McDougall before the Métis would let him enter the territory. Ross then inquired what they would ask of him. Until then, the Métis had been strangely coy when it came to clearly articulating what they understood their ‘rights’ to be. Begg (1871: 66) remarked that when the Convention of Twenty-Four met on 16 November, “there appeared to be an evident desire on the part of Riel to conceal the policy of his party from the English-speaking members.” Again, on 17 November, the “French adhered to their

¹⁰⁶ The amount in A.S. Morton’s list is 300 acres, while in Daniels (1981: 56), Bumsted (1996: 79) and Flanagan (1983b: 324, note 3) it is 200. While Flanagan cites Daniels, he also refers to the original document in the archives. I therefore presume that the correct amount is 200 and not 300 acres.

seeming desire to conceal their policy” (ibid.: 78). Similarly, an informant also reported that on 17 November, the English delegates demanded of the French delegates their policy, but they refused to give it” (Canada, 1870a: 55). Again, following the meeting of 22 November, “the French had not declared their policy” (Begg, 1871: 94).

Apparently, upon reading McDougall’s *Proclamation*, Riel “appealed to the English delegates [...] to ‘help them peaceably to get their rights’,” the latter responded by demanding “a statement in writing of ‘what these rights were’” (Canada, 1870a: 76). Undoubtedly, the Métis realised such ideas would have to be agreeable to the Half-Breeds if they were going to form the basis of building a coalition with them. The French delegates requested a two-hour adjournment and came back at six o’clock with the first *List of Rights*. They notably consulted Stutsman when writing up their first official list. Not surprisingly, all of the demands that appeared in the in article in the *Daily Press* of St. Paul on 1 November 1869 were included in the first *List of Rights*. Begg (1871: 112) wrote that it was “believed that Stutsman, from Pembina, had a great deal to do with framing” the first *List of Rights*. The *List* was successful in obtaining the approbation of the English delegates. Riel wrote that, all “the propositions are accepted by the English on the ground that since they are things so little contrary to their views, it costs them nothing to present them to Mr. McDougall with whom a settlement might be obtained” (W. Morton, 1969: 428). The first *List* that the Convention agreed on was as follows:

1. That the people have the right to elect their own Legislature.
2. That the Legislature have power to pass all laws, local to the Territory, over the veto of the Executive, by a two-third vote.
3. That no act of the Dominion Parliament local to this Territory to be binding on the people until sanctioned by their representatives.
4. That all sheriffs, magistrates, constables, etc., etc., to be elected by the people.
5. A free homestead pre-emption law.
6. That a portion of the public lands to be appropriated to the benefit of schools, - the building of roads, bridges and parish buildings.
7. That it be guaranteed to connect Winnipeg by rail with the nearest line of railroad within a term of five years; the land grant for such road or roads to be subject to the Legislature of the Territory.
8. That, for the term of four years the public expenses of the Territory, civil, military and municipal, to be paid out of the Dominion funds.
9. That the military to be composed of the people now existing in the Territory.
10. That the French and English language to be common in the Legislature and Council, and all public documents and acts of Legislature to be published in both languages.
11. That the Judge of the Superior speak French and English.
12. That treaties be concluded and ratified between the Government and several of Indians of this Territory, to insure peace on the frontier.

13. That these rights be guaranteed by McDougall before he be admitted into Territory.
14. If he have not the power himself to grant them, he must get an act of Parliament passed expressly securing us these rights; and until such act be obtained, he must stay outside the Territory (Begg, 1871: 157).

As we have seen, the last two articles had been part of the Métis programme from the beginning. They proved to be the point of contention that caused the attempt at building a coalition to founder. In his notes of the meeting of the Convention, Riel mentioned that such reassurances would perhaps be “on the strength of his commission, perhaps by act of the Canadian Parliament” and that the meeting broke up when the English refused to participate in the sending of delegates to McDougall (W. Morton, 1969: 428). According to Begg’s journal entry of 4 December, the French “proposed in order to secure the above rights, that a Delegation be appointed and sent to Pembina to see Mr. McDougall and ask him if he could guarantee these rights by virtue of his commission” (W. Morton, 1969: 210). According to Thomas Bunn,¹⁰⁷ while the “French appointed their two delegates, [...] the English did not” (Canada, 1874: 124). What is interesting in this debate is that the Métis did not represent their rights in the language of natural law. Rather than asserting the recognition of inalienable and inherent rights, they saw their legislative protection as a result of their political struggles.

From the moment the idea had appeared in the Settlement, the editor of the *Nor'-Wester* had warned that McDougall “will not have the power to grant” many of the demands (*Nor'-Wester*, 26 October 1869: 1). But if the English delegates refused “to appoint Delegates to go to Pembina to consult with Mr. McDougall” (W. Morton, 1969: 210), it was not only because they “knew that Mr. McDougall had no authority to guarantee their rights,” but also because they had “no authority to do so from their constituents.” In another account of the incident, when Riel proposed sending a delegation to consult McDougall with the first *List of Rights*, the “English [Half-Breeds] refused to be parties to this demand, alleging the Proclamation showed they had no right to make it – that they must accept the new Government, and trust that all they could justly ask would be granted” (Canada, 1870a: 76). This version confirms, however that “Riel was indignant at their refusal to join in a

¹⁰⁷ Thomas Bunn (1830-1875): Half-Breed born in Red River. He served as clerk of the Council of Assiniboia and the Quarterly Court from 1865-1870. In January 1868, he was appointed to the Council of Assiniboia. He was elected delegate for St.Clement’s to the Convention of Twenty-Four, the Convention of Forty and councillor to the Provisional Government, to which he served as Secretary of State (Bumsted, 1996: 263-4).

deputation to [McDougall], with his ultimatum, and declared he would bear it himself” (ibid.). Contrary to what the *Nor’-Wester* claimed, the sweeping powers that s. 2 of the *Act for the Temporary Government of Rupert’s Land* had granted the Lieutenant-Governor would have allowed him to guarantee many of the demands in the first *List* by simple decree, albeit not the most important ones. Since “all such Orders in Council, and all Laws and Ordinances [...] shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof,” they could have even been retroactively confirmed by Parliament.

While the *List* was not itself an ‘ultimatum’, the Métis position that “if Mr. McDougall could not guarantee such rights, that the Delegates request him to remain where he is, or return till the rights be guaranteed by Act of the Canadian Parliament” (W. Morton, 1969: 210) certainly was. Even if the Half-Breeds had agreed to send a delegation, McDougall had already indicated that he was in no mood to parley. He had previously told Provencher to explain to the Métis – which Provencher must have done when he met with the Métis at the barricade – that “until the new government was organized, and so long as they remained with arms in their hands, no official communication could be had with them by me, or any one on my behalf” (Canada, 1870a: 6). Riel seemed to be aware of this as he wrote in his notes of a meeting of the National Committee the evening before that “McDougall does not wish to speak to us” (Morton, 1969: 426). Perhaps Riel suspected all along that McDougall would rudely dismiss the delegates and was hoping that the Half-Breeds, once they had seen for themselves in what high esteem the representatives of the Canadian government held them, would join the Métis in forming a Provisional Government.

In any event, with the failure to agree on sending a delegation to McDougall, the Convention was dissolved. Consequently, the last two items became irrelevant and the following two were substituted in the final printed version of the *List*:

13. That we have a full and fair representation in the Canadian Parliament.
14. That all privileges, customs and usages existing at the time of the transfer be respected. (Begg, 1871: 158)

The Métis began to distribute the first *List of Rights* in the settlement and there “was a movement [...] to acquaint the relations of the French living amongst the English and connected with them by marriage that the demands of the French were only for their rights from Canada and that they did not intend to molest the balance of the settlers” (ibid.: 204).

Despite the failure of the Convention to come to any agreement in terms of a common line of conduct, the first *List of Rights* seemed to prove the Métis right in their attempts to build a coalition with the Half-Breeds. Stanley (1978: 81) notes that there “was nothing there to cause dissension or destroy Riel’s hopes of solidarity or opinion among the French and English Métis.” Indeed, when on 7 December Colonel Dennis “expressed a conviction that some agency was at work which had produced a change in the feelings of the people, and the gentleman present [...] remarked that it might probably be accounted for by the distribution through the parishes, during yesterday, of the French ‘List of Rights’ [...] some of them proving reasonable in their character” (Canada, 1870a: 111). One of the representatives, Thomas Bunn concurred that the “unanimous agreement as to the Bill of Rights had [...] a soothing effect. It led to the idea of a union, and in fact effected a sort of union for the time” (Canada, 1874: 116).

James Spencer Lynch, who was in the Settlement from June 1869 to March 1870, was not far off when he asserted that it was “scarcely a coincidence that these persons framed a ‘Bill of Rights’ which was just what the Government was prepared to grant them” (Canada, 1874: 132).¹⁰⁸ But it was not so much what the Canadian government was prepared to grant them as what the Half-Breeds had previously put forward themselves. By advancing the very ‘rights of British subjects’ that the Half-Breeds had put forward over the past decade or so, the Métis, like the Huguenots in France who co-opted Catholic discourse, were co-opting the political claims of the Half-Breeds, especially that of an elected, representative legislature (Pannekoek, 1991: 143-168), in order to render their agenda more acceptable to the Half-Breeds. This was of course *also* a long-standing Métis demand, which made it all the easier for the latter to emphasise it.

As straightforward and obvious as this particular item may seem, it was not so at all at the time. To come back to the issue of what the government was prepared to grant them, the Governor General’s *Royal Proclamation* of 6 December 1869 assured the Métis “that on union with Canada, all your civil and religious rights and privileges will be respected; your properties secured to you” (Canada, 1870a: 44; 1874: 192). It discretely avoided any mention, however, of *political* rights. While the Métis never saw this document, Commissioner Provencher used very much the same expressions verbally when he met with

¹⁰⁸ Lynch took this as evidence of “a conspiracy among the Roman Catholic clergy” (Canada, 1874: 131).

the Métis between 1 and 3 November. He told the ‘leaders of the insurgents’ that Canada “could not and would not interfere with the religious or private rights of the citizens,” but that “free political institutions and self-government” would only be granted “as soon as practicable” (Canada, 1870a: 28). Similarly, when Howe wrote to McDougall on 7 December, he instructed the latter to assure the residents of the Settlement that “all their civil and religious liberties and privileges will be sacredly respected” (ibid.: 43). In terms of political rights, although “the present Government is to be considered as merely provisional and temporary,” his Council would only “have the power of establishing municipal self-government at once” (ibid.).

4.5.2. The First Provisional Government

On 8 December, the Métis National Committee issued the *Declaration of the People of Rupert’s Land and the North-West* (Appendix III: 286-7) in which it proclaimed a provisional government, retroactively effective as of 24 November (Riel, 1985a: 40, 44). Much like the first *List of Rights*, “Riel was apparently reluctant to use nationalist rhetoric which might prove divisive” in the *Declaration* (Flanagan, 1979: 139). Undoubtedly the latter document was moderate “due to tactical considerations,” notably “so as not to drive away possible support from the English of the Colony” (Flanagan, 1978: 161). The failure to build a coalition with the Half-Breeds made for a practical political situation that required prudence and undoubtedly imposed restrictions on the language of the *Declaration*. Although it proclaimed a Provisional Government, it was not an outright *Declaration of Independence*. The document explicitly refers to “our rights and interests as British subjects” (Riel, 1985a: 43) and therefore recognised the sovereignty of the Crown. As we have seen in section 3.3 concerning the monarchical principle in republican doctrine, resistance prior to the Usonian Revolution was often justified in terms of their rights as British subjects. Again, they believed that ‘if the King can do no wrong, his ministers can’, and that they were therefore justified to resist subaltern magistrates who had stepped outside of the boundaries of their official capacity.

For the moment, the specific facet that I am interested in is the justification for the establishment of a provisional government. In terms of McDougall’s blunder in issuing his *Proclamation*, Flanagan (1978: 160) remarked that, “Riel and Dugas did not seize upon this

situation to provide theoretical justification for the provisional government. Instead they invoked an argument based on the sale itself.” Likewise, Bumsted (2001: 52) found it ‘curious’ that the *Declaration* avoided “a justification based on the McDougall proclamation on 1 December” and instead “argued that the HBC had abandoned the people when it had surrendered its rights.” In fact, the latter strategy allowed the Métis to ground the legitimacy of their Provisional Government in the Law of Nations, or *jus gentium*, rather than relying on an interregnum due to McDougall’s mishap. In retrospect, this is all the more so the case when one considers that the transfer never actually took place and it did not in effect put an end to the HBC’s legal right to govern. The problem with basing the legitimacy of the Provisional Government on the end of the HBC’s reign due to McDougall’s *Proclamation* is that, had the transfer effectively gone through as the Métis had every reason to believe that it had, the *Act for the Temporary Government of Rupert’s Land, 1869*, would have been in force and McDougall would have legally become the representative of the Crown in the Territory. The only reason a state of anarchy could be said to exist was because the Métis themselves were illegally preventing McDougall from entering the territory. According to the well-known legal maxim *nullus commodum capere potest de injuria sua propria* (‘no one can gain advantage by his own wrong’), the Métis could not first bring about the very conditions that caused a state of anarchy to exist and then use that very state of affairs for which they were responsible to justify the creation of a Provisional Government. Much like the Usonian, they had to base their justification for resisting the legal representative of the Crown on the English constitution itself and on Natural Law, both of which allegedly fettered the Crown’s prerogative.

Flanagan’s (1978: 159, 161) conclusion that it was essentially a ‘conservative’ document written by “deeply conservative men” relied heavily on the reference to William Barclay (1546-1608) and Jean-Baptiste DuVoisin (1744-1813) in the French version of the *Declaration*. It is undoubtedly true that Riel and Dugas “had to search the Catholic tradition in which they had been educated for a precedent to justify resistance against authority” (Flanagan, 1978: 164). They did not, however, have to look very far. As mentioned previously, the doctrines of legitimate resistance to authority originated in the intellectual circles of the Jesuit and Dominican Orders (Skinner, 1998b: 154). Moreover, Flanagan’s (1978: 161) conclusion relies on his dismissing many of the arguments in the *Declaration*

that can be qualified as more radical and republican – and that do not therefore find their source in a ‘conservative’ Catholic tradition – as being “emotionally rather than intellectually compelling” before discarding them under the pretext that they are not “part of the main thesis of the Declaration.”

While not a specifically republican convention, one of the “rhetorical flourishes” to be found in what Flanagan (ibid.: 161) called “the great betrayal” which, if not the main thesis of the document, was certainly the main justification for the creation of a provisional government. In the first place, in order to understand that this was not simply rhetoric, but a sincere feeling of betrayal, it must be recalled how the Métis had supported the Governor and Council in the early 1860s when it was faced with the political agitation of the Canadian faction and the Half-Breeds. Aside from this, the Catholicism of the Métis arguably restricted the conventions they could mobilise to render ‘untoward’ political action justifiable. In this regard, Flanagan (1978: 160) mentioned that Barclay allowed for two exceptions to the general rule of obedience to established authority: 1) when rulers declared open war on their subjects; and 2) when a king tried to deliver part of his realm to a foreign power. Of these two, it was the latter that figured prominently in Du Voisin’s work and that underpinned the ‘great betrayal’.

While Flanagan (ibid.: 163) was quick to point out that Riel and Dugas “tried to establish as a general principle a case which [Du Voisin] mentioned only in passing and with some uncertainty,” he failed to mention that none other than Grotius explicitly cited Barclay with approval in this regard in *De jure belli ac pacis* (1625). Grotius (1999: 149) mentioned that it was “l’avis de Barclay, que si un roi aliène son royaume, ou le soumet à un autre, il est déchu du pouvoir.” In this regard, Grotius quoted Seneca: “Quoiqu’on doive obéir en toutes choses à un père, on n’est pas tenu de lui obéir quand ce qu’il commande est tel, qu’en le commandant il cesse par là même d’être père” (ibid.). The *Declaration* argued that the people had the right to form their own government “as soon as the power to which it was subject abandons it or attempts to subjugate it without its consent to a foreign power” and maintained “that no right can be transferred to such a foreign power” (Riel, 1985a: 43).¹⁰⁹ If

¹⁰⁹ For Hobbes (1968: 273), if “a Monarch shall relinquish the Sovereignty, both for himself, and his heirs; his Subjects return to the absolute Liberty of Nature.” Hobbes (1968: 272) accepted the rule of the Law of Nations according to which, “obligation of subjects to the sovereign is understood to last as long, and no longer, than the power lasteth, by which he is able to protect them. For the right of men have by Nature to protect

the HBC government was ‘paternalistic’, it lost any claim to its paternal role the moment it agreed to surrender whatever rights it had in the territory.

Flanagan (1978: 159-160) argued that this doctrine is difficult to apply in the circumstances, since neither the Government of Assiniboia nor the Dominion of Canada were sovereign States. First of all, as we have seen in section 2.3.1, Usonians initially justified resistance against subaltern magistrates in the name of the Crown and of their rights as British subjects under the Ancient Constitution and the Laws of Nature. Second, Barclay’s first exception is also relevant in the particular case of the Métis. After citing Barclay’s first justification for legitimate resistance to legal authority, Grotius found it hard to imagine this ever happening in the case of a sovereign that governed a single people. On the other hand, he recognised that in the case where the sovereign governs several peoples, “il peut arriver qu’il veuille dans l’intérêt de l’un ruiner l’autre, pour y établir des colonies” (ibid.: 150). On 25 February 1870, Macdonald wrote to Sir John Rose in England that these “impulsive half-breeds have got spoilt by this *émeute*, and must be kept down by a strong hand until they are swamped by the influx of settlers” (qtd. in Bumsted, 2001: 98). In other words, he was still intent on governing the territory in a despotic manner until the population was sufficiently ‘whitestream’ enough to grant it elective institutions.¹¹⁰ The Métis were perfectly aware that the federal government and Ontario saw in the West a *Lebensraum* for the Anglo-Saxon race. Riel told the Council of Assiniboia on 25 October 1869 that the Métis “felt that if a large immigration were to take place they would probably be crowded out of a country which they claimed as their own” (Canada, 1870: 98).¹¹¹ Riel was clear about his objective: “we must seek to preserve the existence of our own people. We must not, by our own act, allow ourselves to be swamped. If the day comes when that is done, it must be by no act of ours” (*New Nation*, 11 February 1870: 1). Flanagan (1991b: 113) recognised that, lurking behind the land grant to the Métis in s. 31 of the *Manitoba Act, 1870*, “was the fear that

themselves, when none else can protect them, can by no Covenant be relinquished.” This was, of course, a rule of the doctrine of allegiance in feudal common law that Lord Coke had elaborated on in *Calvin’s Case* (1608: 9b) when he commented that, “power and protection draweth ligeance.” As Justice Cockburn put it in the case of *R. v. Keyn* (1876: 236), “protection and allegiance are correlative: *it is only where protection is afforded* by the law that the obligation of allegiance arises.”

¹¹⁰ As the HBC had done with Cuthbert Grant a half-century ago, Macdonald’s strategy to eliminate Riel as a political factor was to simply use of the power of appointment to co-opt Riel with a position as senator for the North-West Territory.

¹¹¹ Councillor Cowan reported that one “of the Council, a French member, said after Riel left, that the older French people had approved of the movement” (Canada, 1870: 128). This was undoubtedly Dease.

aggressive newcomers might purchase all the good land in Manitoba, leaving the younger generation of Métis a landless minority in their own province.”

In the early morning hours of 24 November, Riel was aware that “McDougall is preparing to complete all his arrangements with the Council of Assiniboia for the first of December. That on his declaring himself governor on that day, the government of Assiniboia is finished. It has therefore only a few days to run in a state of perfect incapacity” (Morton, 1969: 426). From that moment, Riel reasoned, the Council of “Assiniboia will be dead,” and he pleaded with his fellow representatives to “form a Provisional Government beforehand” (ibid.). In other words, Riel’s strategy was to beat McDougall to the punch. For some reason, he believed that they would “run less risk” if they proclaimed “the formation of the Provisional [Government] *only after* December 1st” (ibid.). In effect, the *Declaration* was issued on 8 December, but backdated its establishment to 24 November. It was on this date that Riel carried out his plan to “seize the public accounts, the public funds in order to force McDougall to deal with a public body” (ibid.: 427). Again, as with the fort, this was a pre-emptive strike: “Those books and that public money belong to the public. McDougall must not take possession of them in spite of us” (ibid.). Presumably, the funds involved were those the HBC collected as a public body through customs. In other words, in order to backdate the establishment of the Provisional Government to 24 November, Riel felt he had to commit some symbolic act that could retroactively be interpreted as the transformation of what up until then had been the private, although collective, body of the Métis National Committee, into a public body. This is why the participation of the Half-Breeds in the Provisional Government was so important to Riel. Not unlike the Huguenots, he was justifying resistance in terms of the HBC’s and Canada’s abuse of power in purely secular, constitutional language, without appealing to any specific Catholic religious rights and privileges, which could have alienated Protestants support. Admittedly, in Skinner’s (1998b) terms, this language leans more towards that which lies at the foundations of the modern theory of the State rather than republicanism. Again, this illustrates how institutions imposed their own logic of the situation and weighed heavily on the relative advantages of different available political vocabularies.

4.6. The Second Convention

In response to the Métis Resistance, the federal government commissioned Donald Smith, who was then chief agent of the HBC in Montréal, as an emissary with instructions “to explain to the inhabitants of the said Country, the principles on which the Government of Canada intends to administer the Government of the Country [...]; and to take steps to remove any misapprehensions which may exist in respect to the mode of Government of the same” (Canada, 1870a: 8). His commission specified that he was “to report on the most proper and fitting mode for effecting the speedy transfer of the Country [...] with the general assent of the inhabitants” (ibid.: 50). When Smith arrived in the Settlement in late December, he immediately proceeded to undermine Riel’s authority by refusing to deal with the provisional government. He insisted instead on reading his commission and instructions at a public meeting (Canada, 1870a: 1-3). In January 1870, a meeting was called and attended by over a thousand individuals. Smith read the various commissions and letters in an attempt to reassure the population of Canada’s good faith (*New Nation*, 21 January 1870: 2-3). When Smith finished, the meeting adjourned for a half-hour, after which Riel proposed the creation of a Convention of Forty composed of twenty Francophone and twenty Anglophone delegates “with the object of considering the subject of Mr. Smith’s commission and to decide what would be best for the welfare of the country” (ibid.; Riel, 1985a: 303).

The Convention met on 25 January and began to consider Smith’s commission along with various letters he had read at the public meeting. When the Convention questioned Smith on his commission, Riel wondered whether Smith was in a position to grant the demands in the first *List of Rights* (*New Nation*, 28 January 1870: 2). When several delegates from the protestant parishes expressed a desire to draw up a new *List*, a committee was appointed to draw up a draft *List of Rights* (ibid.: 3). The committee included James Ross, Thomas Bunn and Dr. Curtis James Bird for the English and Louis Riel, William O’Donoghue and Charles Nolin for the French (ibid.). Métis and Half-Breeds were therefore heavily involved in the formulation of their demands since all the French members of the committee were Métis and among the English only Dr. Curtis James Bird was not a Half-Breed. Certainly, the lower clergy tried to have a certain influence on the Métis, such as Father Dugas who forwarded a number of suggestions to Riel on the 26 January (Stanley, 1961: 94). Smith may also have had some influence on certain members of the committee, or of the Convention, since he

wrote to Macdonald on 1 February 1870 that *we* “succeeded in getting expunged some of the most objectionable points” (A.S. Morton, 1973: 902). In the end, however, this takes nothing away from the fact that it was an overwhelming majority of Métis and Half-Breeds that discussed and adopted the *List of Rights* during the Convention of Forty, nor from the quality of the second *List* as it originally stood. Bumsted (2001: 69) found that “even a quick glance at the draft demonstrated that the inhabitants of Red River, or at least their leaders, had some fairly sophisticated notions of what government was all about, far in advance of the original tutelage for the population assumed by the Canadian government.”

When the committee completed its work, the Convention began debating the draft *List* on 29 January (*New Nation*, 4 February 1870: 1) and adopted the final article on 4 February (*New Nation*, 11 February 1870: 2). After the *List* was adopted, Smith revealed to the Convention on 7 February that Macdonald had instructed him to invite the inhabitants to send at least two delegates to Ottawa to negotiate with the federal government (*New Nation*, 18 February 1870: 1). At the beginning of the Convention meeting on the following day, the delegate from Winnipeg, Alfred Scott, questioned whether the Convention had the power to send delegates. Riel immediately saw an opportunity to exhort the Half-Breeds to join the Provisional Government (*ibid.*). By this time, it was known in the Settlement that the transfer had not taken place and that McDougall’s *Proclamation* was, as O’Donoghue said, “bogus,” and Riel qualified the whole McDougall incident as “a baseless affaire” (*ibid.*). The English-language delegates hesitated since they were wary of being accused of rebellion. Finally, two members of the Convention, Sutherland and Fraser, consulted with Governor McTavish “as to the advisability of forming a provisional government,” the latter replied: “Form a government for God’s sake, and restore peace and order in the Settlement!”¹¹² When they asked him whether he would delegate his power as Governor to another, McTavish further replied: “I will not delegate my power to anyone” (*ibid.*). This may be because he simply considered that he no longer had any power to delegate. Unbeknownst to the Métis and Half-Breeds, McTavish, who was dying of tuberculosis, had written a draft of his resignation from the company on 15 January 1870, declaring himself “so feeble as to be unfit for business of any kind” (Goossen, 2000).

¹¹² Begg recorded this in his journal entry of 9 February 1870 (W. Morton, 1969: 301). Xavier Pagée, who was a delegate to the Convention from St. François-Xavier, also testified to this effect during Ambrose Lepine’s trial in 1874 (Elliot and Brokovski, 1874: 74-75, 80-81).

With McTavish's exhortation, the Half-Breed representatives finally accepted to join the provisional government. The next day, a committee was struck, composed of the same six members that had composed the draft of the second *List of Rights*, to write up a Constitution for a provisional government and to put forward a list of individuals to fill executive and judicial offices. Like the first Convention, the Provisional Government was to be composed of twenty-four members, or twelve from the Protestant parishes and twelve from the Catholic parishes. As demanded in the first *List of Rights*, the President was to have a veto, but it could be overturned by a vote of two-thirds of the members of the Legislative Assembly. Thomas Bunn was elected Secretary, Louis Schmidt, Under Secretary and O'Donoghue, Treasurer (*New Nation*, 25 February 1870: 1). When Nolin suggested that the Convention should elect a president as well, M. Laronce proposed Riel and Xavier Pagée moved that Riel be elected. Although some of the English delegates were uncomfortable with going ahead with electing a president before they consulted their constituents, Riel was elected to the office of President with only three abstentions (*ibid.*: 1-2). As President, Riel then appointed Reverend Joseph-Noël Ritchot as delegate for the French, Judge John Black¹¹³ as delegate for the English settlers and Alfred H. Scott¹¹⁴ for the American to negotiate the conditions of entry of the Red River Settlement into the Canadian Federation and the Convention confirmed their appointment (*New Nation*, 25 February 1870: 2; W. Morton, 1969: 305). When the Provisional Government and the three delegates were announced in the *New Nation*, the expression "Vive la République" was used (18 February 1870: supplement). The Convention then adjourned.

On 2 March, Riel wrote to Ritchot that the *List* was being reworked (Riel, 1985a: 56) and Taché wrote to Ritchot on 21 March that while he traced "these lines the Bill of Rights to be asked from Canada is being revised at Fort Garry" (qtd. in Stanley, 1985: 125). This came to be the third *List of Rights*, which demanded entry into Confederation as a Province rather than as a Territory. On Taché's intervention, this was again slightly modified to include publicly funded denominational schools, forming the fourth and final *List of Rights*, which

¹¹³ Judge John Black (1817-1879): Arrived in Red River in 1839, entered the service of the HBC, and rose to the post of chief trader. He became recorder and president of the General Quarterly Court in 1861 and member of the Council of Assiniboia in 1862 (Bumsted, 1996: 259)

¹¹⁴ Alfred H. Scott (1840-1872): Worked as barkeeper in the saloon of Hugh F. O'Lone, later working as clerk in a store (Bumsted, 1996: 323). Apparently, his appointment gave rise to "universal dissatisfaction except among a few Americans in the Settlement" (W. Morton, 1969: 305). Some members of the Convention thought it would be more appropriate to appoint a 'half-breed' (*New Nation*, 25 February 1870: 2).

the delegates carried with them, along with their instructions, to Ottawa (Trémaudan, 1984: 231-234). The result of their negotiations was subsequently embodied in the *Manitoba Act, 1870*.

While not intended to be exhaustive, this chapter completes the reconstruction of the essential aspects of the dynamics of the practical political context in which republican ideas were activated during the Resistance of 1869-1870. We can now move onto surveying the linguistic conventions in the political discourse of the Resistance of 1869-1870. Again, this involves analysing various documents and speech acts produced during the Resistance with the objective of identifying the conventions, then matching these with those identified in the second chapter in order to establish that the particular constellation of conventions are similar enough to the model of republicanism to warrant being labelled 'republican discourse'.

5. Republican Discourse and the Resistance of 1869-1870

We have now arrived at the point where we can survey the linguistic conventions in the political discourse of the Resistance of 1869-1870 in order to identify republican fragments. Again, this involves using the republican conventions identified in the second chapter as a grid while analysing the various documents and speech acts produced during the Resistance in order to establish whether the particular constellation of conventions warrant being labelled as a 'republican discourse'. I will begin with the notion of republican liberty, then look at traces of both positive and negative liberty. From there, I will move on to the rule of law. One of the tell tale signs of republican thought, the mixed and balanced constitution will be explored to see to what degree discourse in the Settlement corresponds to this convention. In order to do so, the mixed constitution will be broken down into its tripartite structure. First, I will explore fragments that refer to the monarchical principle, whether directly in terms of allegiance to the Crown, or indirectly, as in the rights of British subjects. I will then look at the ways that were proposed to contain the Crown's prerogatives. With the presence of the monarchical principle established, I will then show what traces I have found in political discourse of the Resistance concerning the aristocratic principle. Finally, fragments of the third element of a mixed constitution, the popular principle, will be exposed to see how this was understood both in the weaker sense of consultation and in the stronger sense of participation. A necessary element of this popular principle is how citizenship was both conceived and acted upon. In this regard, I will consider evidence of the type of virtue that the Métis practised. Moving more into both the source and development of such virtue, I will

look at how the Métis bison hunt formation contributed to the practice of the virtue of active citizenship. Finally, I will consider the importance of real property, which was not so much perceived as a source of virtue, but rather as a qualification for political rights, thereby assuring possession of the soil so as to preserve the Métis nation.

5.1. Republican Liberty

In the *Protest of the Peoples of the North-West*, the President of the Provisional Government exclaimed that, “Our cause is that of liberty!” (Morton, 1969: 527). That ‘liberty’ in this context was very much ‘liberty as non-domination’ is evident in the numerous portrayals of the Métis being ‘sold like cattle’ by the HBC. For example, Riel (1985a: 25) stated during the Convention of Twenty-Four that “nous nous rebellons contre la compagnie qui veut nous vend[re] et veut nous livrer et contre le Canada qui veut nous acheter.” When Riel attempted to have an article added to the second *List of Rights* that would have annulled the deal between Canada and the HBC, he justified this to the Convention of Forty by claiming that a “Company of strangers, living beyond the ocean, had the audacity to attempt to sell the people of the soil” (*New Nation*, 11 February 1870: 2-3). The implication, of course, is that they had been sold to Canada as if they were part of the HBC’s ‘chattels’ – the common law expression for personal property that is derived from the word ‘cattle’. This language echoes the Roman *Digest*, in which “the predicament of the slave is defined as that of ‘someone who, contrary to nature, is made the property of someone else’” (Skinner, 1998c: 39). Similarly, Aristotle (1932: 17) remarked that slaves were “a live article of property.” The fact that one of the Métis main grievances was that they were being treated like articles of property renders their references in their political rhetoric to ‘liberty’, ‘slavery’ and ‘tyranny’ all that much more relevant.

An interesting example of the use of this rhetoric is to be found in a conversation with Métis guards that *Globe* reporter Robert Cunningham filed in one of his stories. In the first place, Cunningham found they had “some true appreciation of what rights naturally belong to them in any connection whatever” (Bumsted, 2001: 62). He reported that the guards told him:

We want to be treated as free men. Your Canada Government offered to pay £300,000 to the Hudson Bay Company for the Rivière Rouge Territory. Now what we want to know, and we will not lay down our arms till we know what they meant to buy. Was it the

land? If so, who gave the Hudson Bay Company the right to sell the land? When did the Canada Government bought the land did they buy what was on it? Did they buy us? Are we the slaves of the Hudson Bay Company? (qtd. in Bumsted, 2001: 62).

In a letter of 11 March 1870, Taché reported that the Métis felt there was “an organized plan [...] with the object of driving them out of the country, or at least of reducing to a species of servitude within it” (Canada, 1870a: 22). He repeated that the Métis could not “tolerate the idea of having being sold” (ibid.: 23) and that they “were not a herd of buffaloes [...], but they were men and British subjects, and as such were entitled to consideration” (ibid.: 24).

In the English version of the *Declaration of the People of Rupert's Land and the North West Declaration*, reference is made to the classical binary opposition of master and slave: “we refuse to recognize the authority of Canada, which pretends to have a right to govern and impose upon us a despotic form of government” (Appendix III: 286). Further on, it mentions “McDougall and his companions, coming in the name of Canada to rule us with the rod of despotism.” The Greek origin of the word ‘despotism’ – δεσπότης –, which of course evokes the reign of the arbitrary will of the master over his slaves in the private sphere, seems not to have been lost on the authors when they claimed “we have but acted conformably to that sacred right which commands every citizen to offer energetic opposition to prevent his country being enslaved.”¹¹⁵ It is also noteworthy that the text speaks of ‘citizens’ and not of ‘subjects’.¹¹⁶ One sees here that the use of such language as ‘despotic’ and ‘enslaved’ in the *Declaration* were not simply “rhetorical flourishes” that were “emotionally rather than intellectually compelling,” as Flanagan (1978: 161) has asserted. Similarly, in the context of the Usonian Revolution, Bailyn (1992: xii) had also initially, “like most historians, readily dismissed as mere rhetoric and propaganda” expressions such as ‘slavery’, ‘corruption’ and ‘conspiracy’. However, he “began to suspect that they meant something very real to both the writers and their readers: that these were real fears, real anxieties, a sense of real danger behind these phrases, and not merely the desire to influence by rhetoric and propaganda the inert minds of an otherwise passive populace” (ibid.).

¹¹⁵ The French version speaks of “l’asservissement de sa patrie”. However, insofar as the verb *servir* comes from the Latin word *servus*, meaning ‘slave’, the intention is the same.

¹¹⁶ The English version mentions the Canadian government enforcing “its *obnoxious* policy upon us by force of arms.” It is possible that ‘obnoxious’ is simply used here in its contemporary sense of ‘offensive’ or ‘objectionable’. At the same time, it is not entirely inconceivable that the translator was perfectly aware that the Latin term *obnoxius* was used by such eminent Roman moralists and historians, such as Sallust, Seneca and Tacitus, to mean ‘living in subservience’, ‘at the mercy of their masters’ or as ‘the condition of dependence suffered by those who have forfeited their liberty’ (Skinner, 1998b: 42-44).

While the Métis based their claims both on the Law of Nations and their rights as British subjects, there was again something more at work here than rhetoric. It is interesting that the Cree used the term *Otipahemsu'uk* ('freemen') to designate the former *Canadien* employees of the North-West Company who no longer worked under contract to. It eventually came to be an identifier of their mixed-blood offspring. In a similar vein, Alexander Ross (1957: 252) maintained that the Métis "are all republicans in principle, and a licentious freedom is their besetting sin." It is evident from the context that Ross was using 'republican' as an equivalent for attachment to freedom: "They cherish freedom as they cherish life." Ross further asserted that "these people are all politicians, but of a peculiar creed, favouring a barbarous state of society and self-will; for they cordially detest all the laws and restraints of civilized life, believing all men were born to be free" (ibid.). Although Ross' use of the term 'licentious' implies *natural* freedom and carried derogatory connotations, one can nevertheless glean from these passages that liberty was a fundamental value of Métis society that fit well with republican ideology.

The Métis also exploited the classical republican metaphor of the master/slave relation by drawing an analogy between the master and the arbitrary reign of the tyrant. The Lieutenant-Governor designate McDougall was well enough informed to know that the "present attitude" of the Métis was one of "resistance to tyranny" and "defence of their rights" (Canada, 1870: 51). During the meeting with the Council of Assiniboia on 25 October 1869, Riel said the Governor would be "our Master or King" and that they "were simply acting in defence of their own liberty" (Canada, 1870: 136). During the debates of the Convention of Twenty-Four from 16 November to 1 December 1869, Riel referred to McDougall as "trying to establish himself here as our master, declaring himself already our master, without our authorities having told us that he is" (Morton, 1969: 421).¹¹⁷ He evoked the possibility that McDougall may "decline to recognize all our rights after having become our master" (ibid.: 422). Riel also evoked the autonomy/heteronomy dichotomy when he pleaded with the Half-Breeds: "let us not wait together until our liberties pass to alien power, let us not wait to claim them, until they may be in other hands" (Morton, 1969: 421). In a letter dated 30 September 1870 to Bishop Taché, Riel (1985a: 106) repeated the master/slave analogy,

¹¹⁷ «[...] tâchant de s'établir notre maître, se déclarant déjà notre maître sans que nos autorités nous aient dit qu'il l'est». (Riel, 1985: 24).

stating that, “nous nous sommes opposés à notre entrée dans la Confédération avant de savoir si nous y entrions *libres ou esclaves*.” In a letter of 3 October 1870 to U.S. President Ulysses S. Grant, Riel also spoke of the ‘unlimited power’ and ‘almost despotic power’ of the Governor.¹¹⁸

This reference to slaves, or heteronomy, is also implicit in the symbolic gesture of stopping the surveyors. In essence, they wished to communicate that they were not ‘within the power’ or ‘under the jurisdiction’ of Canada (Skinner, 1998c: 41). Again, in his letter to U.S. President Grant, Riel (1985a: 111) specifically referred to “their homes, their country and their liberties” being “held at the mercy of a foreign power and subject to foreign jurisdiction.” He also mentioned that a government had been organized in which they would have no voice. In unmistakably republican terms, Riel (*ibid.*: 117) spoke of the “great and sacred principle of self-government, recognized throughout the civilized world as an inalienable right,” and spoke of being “coerced into a confederation with Canada, under false representations, broken promises, and violated pledges” before claiming that the Canadian State had “by its bad faith, forfeited all claim upon confidence of our people and has instituted a war of extermination against us.”

5.1.1. Positive Liberty

If we define ‘positive liberty’ as the right to self-government, then there is no doubt that the Métis had advanced this argument, and had done so quite early on in the history of the Red River Settlement. As the right to be consulted and to self-government involves the popular principle of the mixed constitution, I will address this question further on in section 5.3.3. In the meantime, one of the particular forms of positive liberty that Berlin (1998: 239) mentioned is that which is “at the heart of demands for national or social self-direction which animate the most powerful and morally just public movements.” As W.L. Morton (1937: 99) has remarked, “the old, proud claim of the Métis to be a ‘new nation’ [was an] assertion of dignity, by no means unjustified.” In this regard, Kalyvas (2008: 45) followed Weber’s idea that “individuals become part of political groups and associations by virtue of a common understanding of honor and a shared sense of dignity.” However, if it is true that

¹¹⁸ As Arendt (2000: 504) noted, in Greek thought “the tyrant was always supposed to rule over men who had known the freedom of a polis and, being deprived of it, were likely to rebel” whereas “the despot was assumed to rule over people who had never known freedom and were by nature incapable of it.”

politics “is a quest for dignity [and] an assertion of identity,” this does not imply that it is “only secondarily an attempt to conquer the state and to realize one’s interests through political means” (ibid.: 44). The Métis’ quest for dignity implied an end not only to their inferior social status, but also, and even more importantly, to their inferior political status. This could only be accomplished by ‘conquering the State’, not only as individual citizens with full political participation rights, but also as a people with a right to political self-determination. In this regard, Vipond (1991) in particular has brought out the connexion between liberty and community in the Canadian context, and the importance of federalism as a way of managing a compromise between the two.

It is from this point of view, that the demand to enter the Canadian federation as a province rather than a territory must be understood. On 15 March 1870, Thomas Bunn, the Secretary of the Provisional Government, gave notice of a motion in the Legislative Assembly which read: “That the Government of England, the Canadian Government and the Hudson Bay Company, have ignored our rights as British subjects, when they entered into arrangements on the subject of the transfer of the Government of the North-West to the Dominion of Canada, without consulting the wishes of the people of the North-West Territory” (*New Nation*, 16 March 1870: 2). When Bunn moved for the adoption of his motion on 16 March 1870, he indicated that the expression ‘*droits des gens*’ in the original French version had been translated as ‘rights of men’, and that this being vague, was replaced with ‘British subjects’.¹¹⁹ Riel specified that the “French phrase used in the original motion is very expressive and alludes to our rights as men – as a people – a nation. In that capacity we have been ignored” (ibid.). Again, their dignity as men, or rather as freemen, and their right as a people were closely linked in their minds. O’Donoghue explicitly contrasted their status as freemen with that of slaves when he stated that, unquestionably, “it is our business, as a people, to say that we cannot be bartered away with as an article of commerce. [...] as men we cannot be trafficked in – bartered away as the pleasure of any Government. We are free men and as such have rights altogether apart from those we acquire by being British subjects” (ibid.). Of course, the constant reference to ‘rights as British

¹¹⁹ This is most certainly a reference to the Law of Nations, as it is mentioned in other documents, and not the French *Declaration of the Rights of Man and of the Citizen*. The concern here is the relation between peoples, not between the individual and the State. The Law of Nations was also considered to be part of Natural Law.

subjects' in both seventeenth century England and eighteenth century America were very much about one's dignity as a freeman.

As we have seen in section 4.2, according to the terms of the *Act for the Temporary Government of Rupert's Land, 1869*, Rupert's Land and the Northwestern Territory were to be admitted to the Canadian federation as a Territory. Moreover, the idea of admitting the territories as provinces was mentioned as early as 1859, when Georges-Étienne Cartier informed Sir Edward Bulwer-Lytton that he and his party were willing to admit the territory as "a separate colony, to form part of a general federation of the British Provinces" (*Nor'-Wester*, 28 December 1859: 2). The first *List of Rights* in effect presumed that Assiniboia would enter the Canadian federation as a Territory, since sections 2, 3, 7, 8, 9 and 13 all refer to the 'Territory'. The committee that wrote up the draft version of the second *List of Rights* stuck to this position (*New Nation*, 4 February 1870: 1). At some point during the debates of the Convention of Forty on the second *List of Rights*, Riel called on Smith "and asked if the Canadian Government would consent to receive them as a Province," to which Smith replied that he "could not speak with any degree of certainty on the subject" (Canada, 1870: 4). On 4 February, Riel pushed for provincial status and "read the Confederation Act to show the powers conferred on the Provinces" and "alluded especially to article 5, which provides that the management and sale of the public lands belonging to the Provinces and of the timber and wood thereon, is vested in the Province" (*New Nation*, 11 February 1870: 2).

Riel had undoubtedly spoken with federal commissioner Jean-Baptiste Thibeault on the subject, since sometime between 6 and 8 February 1870, the latter wrote to Ottawa: "Ceux qui sont à la tête des affaires veulent absolument que le pays entre de suite comme province dans la Confédération. Selon moi et bien d'autres plus entendus que moi dans ces sortes d'affaires, je me permettrais, Monsieur, de vous dire que pour éviter plus tard des troubles encore plus grands, que ceux qui existent aujourd'hui, si vous le pouvez, accordez cette demande" (qtd. in Stanley, 1961: 422, note 25). In addition, little did Riel know that on 21 February 1870, Georges-Étienne Cartier still held steadfastly to the position he had expressed in 1859, repeating before the House that the "Red River must be a Province like Québec, Ontario, Nova Scotia, or New-Brunswick (Canada, 1870b: 118). Bishop Taché also wrote to Cartier on 7 April 1870 that he believed "qu'il vaut mieux que nous entrions *de suite* dans la Confédération comme *province*" (ibid.: 113).

If institutions, and notably the terms of the *British North America Act, 1867*, weighed heavily on and oriented political discourse in Assiniboia, it was also because it offered a structure into which the concerns of the Métis could be accommodated. In the demand for provincial status, it is true that the “course of western history has indelibly etched suspicion of external control into the western psyche” (Flanagan, 2001: 625). But as Paul Romney (1999: 24) has shown, Reform Party rhetoric in Upper Canada/Canada-West displayed no less the same suspicion of external control – first that of the Family Compact, then that of Canada-East under the *Act of Union, 1841*. The federal principle of autonomy allowed Reformers to realise their claim to an inalienable right of British subjects to self-government within a federated State (Romney, 1999: 277). In this sense, federalism, and therefore provincial status, can be seen as a form of security or ‘liberty as non-domination’.

5.1.2. Negative Liberty

Although there are general references to the ‘rights of British subjects’, it is rare that they are given any substantive content. This is understandable, since the only civil liberty that was an issue, not only in the District of Assiniboia, but also in Rupert’s Land and the Northwestern in general, was that of trade, and for all intents and purposes, the HBC’s monopoly had been broken in 1849. Talk of civil rights and liberties were not for all that entirely absent from the political discourse during the Resistance. For example, if the English Half-Breeds were nervous about the recognition of their Indian title in s. 31 of the *Manitoba Act, 1870*, it was because they were afraid that such recognition would automatically mean a loss of civil rights and liberties (*New Nation*, 1 July 1870: 2).

One of the few explicit references to civil rights appeared in French in the *New Nation* (21 January 1870: 2) and may very well have been written by Riel himself. While Flanagan (1979: 157) notes that “Riel was concerned with freedom chiefly in the sense of group autonomy” and that as “a moral reformer, [Riel] disliked the individual liberty of free society,” he makes no connexion to the concepts of positive and negative liberty. It is worth quoting at length due to the argument it makes. The first half essentially argues in favour of negative over positive liberty.

Les droits civils

Les droits civils sont d’un ordre supérieur aux droits politiques et mieux vaudrait mille fois pour un peuple renoncer à ses droits politiques que de laisser attenter au libre

exercice de ses droits civils. Cette proposition devient évidente quand on met en regard l'énumération de ces divers droits. Les droits civils comprennent par exemple : la liberté de la personne de chaque habitant du territoire, quelle que soit son origine, sa couleur, sa condition. La liberté des cultes ; l'inviolabilité du domicile et de la propriété; la liberté de publier ses opinions; la liberté d'enseignement qui découle de la précédente; le droit d'association; le droit de pétition; l'égalité devant la loi; le droit d'être jugé exclusivement par ses juges naturels. Voici parmi les droits individuels les plus importants; et parmi ceux qui sortent de ces caractères purement individuels, mais qui tiennent aux droits civils, n'oublions pas de citer le droit de puissance paternelle, et le droit de disposer et contracter, droits sur lesquels reposent les bases de la société, droits qu'attaquent plus ou moins les doctrines socialistes et autres utopies qui veulent, au moyen d'un système qu'on a désigné quelques fois sous le nom de statolâtrie, faire disparaître tous ces droits civils dans les droits politiques, ce qui n'irait à rien de moins qu'à parquer les peuples comme des troupeaux sous la conduite de l'état, qui en serait le maître, servi par des condottieri.

Initially, this comes across as a purely liberal doctrine of individual rights. It begins by putting civil rights 'a thousand times' over and above political rights and emphasises the 'purely individual character' of such rights. On the other hand, what is interesting about the critique of socialism is that it uses the language of positive liberty. Socialism is represented as a classical case of tyranny, where the people are nothing more than a herd, that is, the personal property of the State or the sovereign, which is explicitly described as a 'master'.¹²⁰ Yet, despite this casting of positive liberty in negative terms, the critique carries a distinctly republican flavour. There is hardly anything more republican than the derogative reference to the condottieri, who were captains of mercenary troops in Renaissance Italy. Moreover, the author insists on the very Ciceronian or Roman idea of the law of contract as the basis of society itself.

After having pleaded the case of individual rights and liberties and distanced himself from doctrines of 'State idolatry' in the first paragraph of the article, the author sought to find a middle ground between these two extremes in the second paragraph:

Il ne faut pas non plus croire que l'exercice de toutes ces libertés et de tous ces droits civils soit absolu, non... C'est ainsi que la liberté de la personne est limitée par le droit qu'a la société de se protéger à l'intérieur et au dehors; que la liberté des cultes ne peut aller chez un peuple civilisé, jusqu'à admettre la pratiques des religions monstrueuses qui admettraient par exemple les sacrifices humains [ou même] la polygamie; que l'inviolabilité du domicile ne peut s'étendre jusqu'à permettre l'établissement de repaires de criminel et d'infamies; que l'inviolabilité de la propriété ne peut être invoquée contre les nécessités d'intérêt public d'une nature importante; que la liberté

¹²⁰ This critique of socialism as a doctrine that would have civil rights disappear before political rights shows how classical this argument was, well before the Russian Revolution in 1917 or Isaiah Berlin's essay on positive liberty.

d'opinion et d'enseignement ne peut consister à autoriser l'abus de ces choses contre les individus et la société; que le droit d'association ne peut conduire à admettre des sociétés ou factions armant les citoyens les uns contre les autres et ainsi du reste. On a tant abusé de ce mot liberté; on a tant publié d'absurdités sur l'exercice de ces droits, [sacr]és en eux mêmes, qu'il est devenu nécessaire de faire suivre l'énoncé de ces propositions des réserves que chacun devrait faire lui-même, dans son propre intérêt comme dans l'intérêt de tous.

Here, the text carries an even more distinctly republican flavour. If the rejection of socialism was necessary in the first paragraph, it was to let the reader know that what follows in the second paragraph is not based on any sort of socialist doctrine. If we take positive liberty as the mean and negative liberty as the end, as did Machiavelli, then it still makes sense within a republican framework to place civil rights above political rights during times of 'ordinary politics'. In this regard, the author's critique of positive liberty leaves republicanism unscathed. Furthermore, the text suggests that the signifiers 'liberty' and 'rights' have in fact been abused in an attempt to pass off licence as liberty and that reminds the reader that liberties and rights must be exercised with prudence, both in one's own interest and in the interest of all.

What is interesting is that despite the author's promotion of individual rights as 'sacred', he justifies placing limits on them when "necessities of public interest" are at stake. It is here that the text distances itself from liberalism, by favouring positive liberty over negative liberty. The author notably justifies violating private residency and private property rights and evokes the abuse of freedom of association when 'societies or factions arming citizens against each other.'" What the author seems to be referring to here is the republican doctrine concerning the Senate's unique duty of *salus populi suprema lex esto* ('Let the good of the people be the supreme law'). It recognises that, in a state of exception, negative liberties cannot be absolute and that limits can be placed on them in the name of the greater good, suggesting that, in the final analysis, positive liberty must trump negative liberty. In other words, when individual rights threaten the security of the *res publica*, the duty of the magistrates may require them to interfere with – but not 'make disappear' – such rights.

The author specifies that 'freedom of the person' can be 'limited by society's right to protect itself' from enemies both within and without. This is not merely abstract theorising, but refers to the very real threat of civil war within the Settlement and to the potential threat of Amerindian and Canadian troops from without. McDougall had in fact attempted to raise

an armed force against the Métis in December 1869, and Dennis and others tried to recruit the surrounding Amerindian tribes. There were also rumours in the Settlement quite early on that Canada was sending troops to crush the Resistance. In various other texts, such efforts are portrayed as an attempt to bring about civil war. For example, the *Declaration* of 8 December speaks of the “persistence on the part of the Canadian Government to enforce its obnoxious policy upon us by force of arms” and declares the “Canadian Government responsible before God and man for the innumerable evils, which may be caused by so unwarrantable a course” (Appendix III: 287). In the *Protestation* of 14 May 1870, Riel claimed that the “men of Upper Canada, with whom we have avoided all sorts of frays during the last six months, have sought to divide us, to arouse us one against the other, to bring us to the horrible collision of a civil war! Has not civil war been proclaimed in our midst?” (Appendix III: 289). The reference to ‘violating private residency and private property rights’ is a justification of the occasions on which Métis militia breaking into homes of members of the Canadian party and confiscating weapons.

5.2. The Rule of Law

There are few direct references to the rule of law in the political discourse of the Resistance, although it is often implied or insinuated. There are, of course, many references to their ‘rights’ as British subjects. The rule of law is also implied in the frequent references to tyranny and despotism, which, as we have seen in section 2.2., are usually taken in republican language to mean the arbitrary rule of men rather than the impartial rule of law. The fact that the Métis insisted on a Parliamentary statute to secure their rights, rather than trusting the promises of officials, is in itself an insistence on the rule of law rather than the arbitrary will of individuals. In this regard, the *Protestation of the Peoples of the North-West* refers to the Métis National Committee as the “Protectors of the rights of the people” (Appendix III: 290). There are, however, several explicit references to the Law of Nations and Natural Law. While Dugas retroactively took credit for the Declaration, claiming: “Il fallait des notions de théologie et de droit naturel qu’il [Riel] ne possédait pas” (Pouliot, 1943: 354), there are reasons to doubt this. First of all, Dugas’ claim that it was he and Ritchot who pushed the Métis to resist the Canadian government (Pouliot, 1943: 354) rings false when one considers that he reported to Taché on 4 September 1869 that “he had been to

St. Norbert and found the métis planning something, he was not quite sure what” (Stanley, 1985: 59). Moreover, Riel had already cited the Law of Nations in his letter of 6 October 1869 (Morton, 1969: 412), or some two months before Dugas composed the *Declaration*. In any case, as all three were educated in Classical Colleges and as the references to Barclay and Du Voisin in the French version suggest, the reference to the Law of Nations was probably more Thomist in origin than liberal.

5.3. A mixed and balanced constitution

Prior to the Resistance, there are few references, whether explicit or implied, to a mixed and balanced constitution in the Settlement. For the most part, the Métis, Half-Breeds and Canadians insisted on the right to elect the Councillors of the Council of Assiniboia rather than adding an elected assembly to the existing Governor and Council. As we have seen in section 4.5., there was a move during the first Convention to create an elected body within the HBC structure, but it is often referred to as an executive council rather than an elected assembly. The first explicit attempt to create an institutional structure based on a mixed constitution was on 21 March 1870. During the first session of the first parliament of the Legislative Assembly of Assiniboia, the MLAs adopted the first articles of a *Constitution of Assiniboia*, the third article of which contemplated the creation of a Senate (*New Nation*, 8 April 1870: 1).

That we, the people of Assiniboia, without disregard to the Crown of England, under whose authority we live, have deemed it necessary for the protection of life and property, and the securing of those rights and privileges which we are entitled to enjoy as British subjects – and which rights and privileges we have seen in danger – to form a Provisional Government which is the only acting authority in this country; and we do hereby establish the following Constitution.

1. That the country hitherto known as Rupert’s Land and the Northwest be henceforth known and styled ‘Assiniboia’.
2. That our Assembly of Representatives be styled henceforth the Legislative Assembly of Assiniboia;
3. That all Legislative authority be rested in a President and Legislative Assembly composed of members elected by the people; and that at any future time another house, called a Senate, shall be established when deemed necessary by the Legislature.
4. That the only qualification necessary for a member to serve in the Legislature be, that he shall have attained the age of 23 years, that he be a citizen of Assiniboia, and a resident of the country for a term of at least 5 years.

The first three *Lists of Rights* make no reference to an upper chamber, legislative council or senate. It was not until the fourth *List of Rights* that a mixed Constitution was demanded as one of the conditions of entry into the Canadian federation. The first article of the fourth *List* demanded: “That this province be governed: 1) By a Lieutenant-Governor, appointed by the Governor-General of Canada; 2) By a Senate; 3) By a Legislature chosen by the people with a responsible ministry” (Appendix II: 284). While this may have very well been modelled on Québec’s constitution at the time, which included a Legislative Council, there is not evidence to confirm this.

That certain members had a conception of the mechanical division of powers is clear when the Legislative Assembly of Assiniboia created a committee to write up a Constitution for the Provisional Government. O’Donoghue “objected to any person not a member, being appointed on that, or any other committee, of the House” (*New Nation*, 16 March 1870: 2). He was referring to Ross, who had been appointed Chief Justice. Bunn seemed to interpret O’Donoghue’s objection as if he questioned Ross’ competence or had a personal problem with him. O’Donoghue replied that he “did not object to Mr. Ross on personal grounds” and merely objected “to his being placed on the committee as giving precedent, which is not only unusual, but which in all probability would work ill, as in the event of the Chief Justice being placed on a Parliamentary Committee” (ibid.). It was clear that what O’Donoghue found inappropriate was for a member of the judicial branch to be involved in the affairs of the legislative branch.

5.3.1. The Monarchical Principle

From the beginning until the end of the Resistance, the Métis constantly and repeatedly swore allegiance to the Crown. For example, in a letter dated 6 October 1869 to the editor of the *Courrier de Saint-Hyacinthe*, the object of which was to give the “grounds on which the Resistance was begun,” Riel wrote that the representatives of the Métis population had passed the resolution in their first assembly: “These representatives declare in the name of the Métis population of Red River that they are the loyal subjects of Her Majesty the Queen of England”.¹²¹ During the Convention of Twenty-Four, when Ross implied that the Métis

¹²¹ “déclarent au monde [...] qu’ils sont sujets loyaux de Sa Majesté la Reine d’Angleterre” (Riel, 1985: 19). Morton claims the writer was the abbot Giroux, “a college friend of Riel’s who came to Red River in 1868, and

were in rebellion against the Queen, Riel protested that they had “never refused to obey the Queen of England” (Morton, 1969: 421) and that if “we rebel against the Company [...], we do not rebel against the English government” (ibid.: 422). A resolution of the provisional government adopted on 15 March 1870 stated: “the loyalty of the people of the North West towards the Crown of England remains the same” (*New Nation*, 16 March 1870: 2). At the first session of the first parliament of the Legislative Assembly of Assiniboia on 18 March 1870, Riel stated, “We are the only acting authority – but we are, still, under the Crown of England” (*New Nation*, 8 April 1870: 1). When the Constitution of the Provisional Government was adopted on 26 March 1870, the first article read: “We the people of Assiniboia, without disregard to the Crown, under whose authority we live [...]” (*New Nation*, 8 April 1870: 1). The *Protestation des peuples du Nord-Ouest* of 14 May 1870 repeated that the representatives of the Métis “étaient sujets loyaux de sa Majesté la Reine d’Angleterre” (Riel, 1985a: 91). Riel (ibid.: 31) even claimed that the Provisional Government was simply exercising the powers of an English colony when it executed one of the prisoners, Thomas Scott, who had participated in an attempt to overthrow the Provisional Government.

There may have been, of course, strategical reasons for declaring one’s loyalty to the Crown. This was notably the case in England in the seventeenth century, where radicals were reluctant to find the king personally responsible. In Great Britain and in the United States, the expression “the rights of British subjects” came to mean the civil and political rights of citizenship. While Riel and others used this strategy abundantly during the Resistance, there is some indication that it was instrumentalising allegiance to the Crown. An informant who had access to Riel’s Council reported to McDougall that when Riel read the Proclamation he had issued on 1 December 1869, it “had a most tranquilizing effect” (Canada, 1870a: 76). Riel said “this puts a different face on the matter,” and “expressed much loyalty” (ibid.). To be sure, Riel’s version differs somewhat: “Bannatyne comes saying that he brings the Queen’s Proclamation.¹²² Riel examines the document and says laughing that it indeed looks very like one. Handing back the poster to Mr. Bannatyne, he says to him ‘Take that big

was priest at the Cathedral and Ste-Anne-des-Chênes, and chaplain to Riel’s forces in Fort Garry” (W. Morton, 1969: 411, notes 1 and 2).

¹²² That is, McDougall’s *Proclamation*.

sheet' (pronouncing the double 'e' very short)" (Morton, 1969: 427).¹²³ Nevertheless, his subsequent remarks do correspond to the previous account: "My friends, if it is the Queen's Proclamation, pay attention. Let us weigh our acts before acting. It is more than ever necessary for us to be prudent in the vindication of our rights, so dear and so certain" (ibid.). In the aforementioned debate as to whether they should claim their rights as a people under the Law of Nations or as British subjects, when Alfred Scott, one of the delegates representing Winnipeg, moved to amend the motion by replacing "our rights as British subjects" with "our rights as a people," Bunn disagreed, asserting that it was "only as British subjects that we have any right to complain. If we were subjects of another power, we would not have a word to say in the matter" (*New Nation*, 16 March 1870: 2). In this sense, claiming the rights of a British subject clearly meant accepting the Queen as their sovereign.

Submission to the Crown in no way meant remaining passive and obedient. If Riel (1985a: 19) wrote in the fifth point of his "Lettre à Monsieur le Rédacteur" of 6 October 1869 that the Métis had "toujours été soumis à la couronne d'Angleterre," he nevertheless asserted that they "feront tout ce qui dépend d'eux, pour faire respecter, en leur faveur, les prérogatives accordées si libéralement par la couronne d'Angleterre à n'importe quelle colonie anglaise." Bunn too seemed to conceive of liberty in this medieval sense of a privilege accorded by the Crown. If he granted that, in principle, every people have rights, he immediately inquired from whom such rights could be claimed, and then asserted that as they were asking for rights the Crown of England, they could only do so as British subjects (*New Nation*, 16 March 1870: 2). As we have seen, Riel and O'Donoghue replied that their rights were also founded on the Law of Nations (ibid.). Of course, such claims were not seen as mutually exclusive, as Usonian had argued that natural law had been integrated into the common law, so by claiming one's rights as a British subject one was necessarily claiming one's rights under natural law, and vice-versa (Bailyn, 1992: 77-79; Wood, 1969: 10). What may explain such positioning is that, as the Reformer Robert Baldwin Sullivan put it at an election-eve dinner in 1844, it mattered little whether their rights were *theoretically* inherent or conceded; what mattered was to have them *practically* (Romney, 1999: 67).

¹²³ Riel was not expressing a lack of deference for the Queen, but rather for McDougall and Canada. He had no way of knowing whether the *Proclamation* was authentic or not.

5.3.1.1 Fettering the Prerogatives of the Crown

In a constitutional monarchy, the prerogatives of the Crown include a veto over bills and an unfettered power of appointment, notably of both executive and judicial officers. In this regard, it is interesting that the Métis attempted in several ways to bound the prerogatives of the Crown. In terms of appointments, they initially followed the Usonian example and demanded that magistrates be elected by the people. The first *List of Rights* is explicit on this point. Clause 4 demanded that “[a]ll sheriffs, magistrates, constables, etc., etc., to be elected by the people” (Appendix II: 280). As we have seen, this was not something that suddenly appeared in Métis demands during the Resistance, but had been demanded previously in petitions. Even when the delegates were appointed to negotiate with Canada, practise resembled the Usonian procedure of the President submitting his nomination to the Senate for approval. It was the executive of the Provisional Government that appointed the delegates, but the Convention of Forty that confirmed them. Again, this shows some awareness of the notion of a balanced constitution.

Later, Riel (1985a: 358, 412) also evoked a certain limit to the power of appointment when he maintained that the nomination of ministers must be confirmed by the population through re-election. It was effectively practised in United Canada in the 1850s (Romney, 1999: 78). Furthermore, the third and fourth *Lists of Rights* attempted to fetter the Crown’s power of appointment of its representative in the province and of the Chief Justice. The third *List of Rights* demanded that “the Lieutenant-Governor, who may be appointed for the Province of Assiniboia, should be familiar with both the English and French languages” and that “the judge of the Superior Court speak the English and French Court languages” (Appendix II: 283), while the fourth *List* demanded that “the Lieutenant-Governor to be appointed for the province of the Northwest be familiar with both the English and French languages” and that “the Judge of the Supreme Court speak the English and French languages” (Appendix II: 285).

Riel also evoked responsible government on several occasions both during the Resistance and after. During the Convention of Twenty-Four, Riel justified forming a provisional government in order to force Canada to grant them “a form of responsible government” (Morton, 1969: 425). This demand was explicitly made in two of the four *Lists of Rights*. The fifth article of the second *List of Rights* demanded that the Territory be “governed, by a

Legislature [elected] by the people, and a Ministry responsible to it” (Appendix II: 281). The first article of the fourth *List* mentions “a Legislature chosen by the people with a responsible ministry” (Appendix II: 284). The principle of responsible government could be associated with constitutional liberalism (Azjenstat, 1997: 216), which it effectively became in the 1830s and 1840s, but in the 1820s it was unmistakably of Irish and Usonian republican orientation (Romney, 1999: 45-46).

The Métis also followed the Usonian example of limiting the Crown prerogative to veto legislation. The second clause of the first *List of Rights* specified: “The Legislature to have power to pass all laws, local to the Territory, over the veto of the Executive, by a two-third vote” (Appendix II: 280). The second *List of Rights* also specified in clause seven that “while the Northwest remains a territory, the Legislature have a right to pass all laws local to the territory, over the veto of the Lieutenant-Governor by a two-third vote” (Appendix II: 281).

5.3.2. The Aristocratic Principle

Neither the first nor the second *Lists of Rights* make any mention of a second house. What is curious is that the third *List of Rights* mentions a ‘senate’ or a legislative council. The first article of the fourth *List* asks that “That the territory of the Northwest enter into the Confederation of the Dominion of Canada as a province” and that “this province be governed: 1) By a Lieutenant-Governor, appointed by the Governor-General of Canada; 2) By a Senate; 3) By a Legislature chosen by the people with a responsible ministry” (Bryce, 1890: 8). At first glance, Riel seems to have simply copied the Constitution of Québec by including an upper chamber in the Constitution of Manitoba, but it is difficult to know exactly why the executive of the Provisional Government inserted this demand at this particular time.

Later on, there was an attempt to create a Senate for the Provisional Government. As we have seen, the Legislative Assembly of Assiniboia created a Constitutional Committee to write up a constitution for the Provisional Government. The third article of the *Constitution of Assiniboia* provided that “at any future time another house, called a Senate, shall be established when deemed necessary by the Legislature” (*New Nation*, 8 April 1870: 1). While the Committee failed to come to any agreement on a more elaborate version of the

Constitution, the executive attempted to take advantage of s. 3 of the existing *Constitution* to create a second chamber. On 9 May, secretary Bunn read the minutes of the executive meeting of 7 May to the Legislative Assembly. The executive had “resolved that it was expedient to form a Senate in compliance with a resolution passed in the recent Convention of English and French Representatives, which was to the effect that whenever the Legislative Assembly felt it to be expedient another House should be formed making the Legislature consist of two Houses” (*New Nation*, 20 May 1870: 2; Bowsfield, 1968: 160 note 405).

A contemporary observer, H.M. Robinson, noted, however, that it was to be composed of the Protestant and Catholic Bishops, and “representatives from the various Parishes of the Settlement” (Bowsfield, 1968: 160). In effect, the committee put forward the names of Bishop Taché, Bishop Machray, Salomon Amlin (Hamelin), Roger Goulet, Andrew McDermott, Patrice Beland, John Sutherland, a certain Mr. McKenzie of Portage-la-Prairie and either Mr. Truthwaite or Capt. Kennedy (*New Nation*, 20 May 1870: 2). What is interesting about the list of candidates is not so much that they represented the various Parishes – the Legislative Assembly already filled this role – but that many were Councillors of Assiniboia or people of standing or prestige in the Settlement – in other words, the Settlement’s ‘natural aristocracy’. This suggests that what the executive aimed at was to provide the Provisional Government with something of the *auctoritas* of both the Council of Assiniboia as well as of the Anglican and Catholic Churches. In this regard, the balanced constitution was conceived as organic rather than mechanical.

According to Robinson, Riel’s motive was “to criminate as much as possible the entire population – naturally desirous, of course, to saddle the public representatives with at least a portion of the odor of his past actions – and their refusal to become *particeps criminis*” (Bowsfield, 1968: 160). Another alleged reason that “President Riel [...] endeavoured to pass a Bill creating an Upper Legislative Assembly,” was “as an effort to increase a semblance of unity” (*ibid.*). However, O’Donoghue brought up that “there was a fuller resolution that the Senate should be composed of ten members, and that they be appointed for two years – that the two bishops and their successors should be members for life” (*New Nation*, 20 May 1870: 2). As such terms extended well beyond the expected life of the Provisional Government, it is apparent that what the executive was attempting to do was ensure a transition and continuity between the Provisional Government of Assiniboia and the

Legislature of Manitoba, and thereby secure the legal recognition and foundations of the Provisional Government. Nothing, however, came of the committee's proposals since the House was adjourned and the question postponed until the next session.

5.3.3. The Popular Principle

One of the most often repeated grievances on the part of the Métis was that they had neither been consulted about being transferred to Canadian jurisdiction nor about the form of government they were to be provided with. As we have seen in section 2.3.3., one of the key conventions of positive liberty is the consent of the people. This is probably the principal reason for opposition to the transfer in the Settlement. For example, according to Dennis, the “attitude of the English-speaking portion of the colony” was that they had “not been consulted in any way as a people, in entering into the Dominion” (Canada, 1870a: 11). Provencher reported to McDougall on 3 November that the “general complaint of [the Métis], as far as I could ascertain, was, that they had not been consulted on the new political changes about to take place” (Canada, 1870a: 28). In effect, Riel protested that McDougall, “ne vient pas comme il devrait avec leur consentement libre et la garantie de leurs droits” (Riel, 1985a: 27). Riel later insisted that the “people of course have the right to be consulted. There is only the right of Conquest against it” (*New Nation*, 16 March 1870: 2). Again, in his letter to the U.S. President, Riel (1985a: 110-111) mentioned several times the failure of Canada or the HBC to notify, consult or seek the consent of the people of the country in regards to the transfer, the building of Dawson Road and the land surveys. On 15 March 1870, a notice was given of a motion in the Legislative Assembly that took exception to the “arrangements on the subject of the transfer of the Government of the North-West to the Dominion of Canada” being made “without consulting the wishes of the people of the North-West Territory” (*New Nation*, 16 March 1870: 2).

It was also expected that this ‘duty to consult’ would be respected in regards to any future Acts of Parliament. The third clause of the first *List of Rights* insisted that “[n]o act of the Dominion Parliament local to this Territory to be binding on the people until sanctioned by their representatives” (Appendix II: 280). This resembles the role of the assembly of citizens in the Spartan Constitution, which could not discuss the alternatives put forward by the

Council of Elders, but could only accept or refuse them (Aristotle, 1932: 140, note a).¹²⁴ In a sense, the duty to consult reduces the voice of the people to exactly that – a simple voice (φωνή) rather than speech (λόγος). In this regard, Kalyvas (2008: 182-3) has noted that, according to Schmitt’s thought concerning the sovereign people, they “cannot speak or deliberate, they can only shout and acclaim [...] that is, only by a yes or a no to the leader’s propositions.” In essence, consultation is not in itself sufficient to meet the demands of discursive republicanism. For Kalyvas (ibid.: 183), this “lack of public deliberation and dialogue among citizens instantly cancels the reflexive capacity of the *demos* to lucidly debate and critically consider public issues.”

The demand to be consulted took on a much stronger form of direct participation in deliberating the terms and conditions of entry into Confederation. In effect, Stanley (1978: 80) noted, Riel’s programme of action “was nothing less than to negotiate with the government of Canada the ‘terms and conditions’ on which Red River would enter Confederation.” There is ample proof that negotiating the conditions of entry with Canada was Riel’s objective. As early as 12 October 1869, Governor McTavish wrote that the Métis “consider if the Canadians wish to come here, the terms on which they were to enter should have been arranged with the local government here, as it is acknowledged by the people of the country” (Canada, 1870a: 47). Riel effectively told the Council of Assiniboia on 25 October 1869 that the Métis “would never admit any Governor [...] unless delegates were previously sent, with whom they might negotiate as to the terms and conditions under which they would acknowledge him” (ibid.: 136). Joseph Provencher reported to McDougall on 3 November 1869 that, “if the Canadian Government was willing to do it, they were ready to open negotiations with them, or with any person vested with full powers, in view of settling the terms of their coming into the Dominion of Canada” (ibid.: 28). Consultation also meant that the people, or at least their elected representatives, would have a final say on the result of the negotiations with Canada. When the executive wrote up instructions for the three delegates that were to negotiate the terms of the transfer, it specified that “vous n’avez pas de pouvoir vous autorisant à conclure des arrangements définitifs avec le gouvernement canadien; mais toutes ces négociations devront d’abord recevoir l’approbation du

¹²⁴ Similarly, the judges in Athens were not allowed to discuss their decision with fellow judges and could only accept or refuse the totality of the accusations (Aristotle, 1932: 121-127).

Gouvernement Provisoire et être ratifiées par lui avant que l'Assiniboia devienne une province de la Confédération" (Trémaudan, 1984: 234).

However, Métis demands went beyond being mere consultation. When Riel declared that, "nous voulons que le peuple de la Rivière Rouge soit un peuple libre," he was referring to liberty as self-government. Interestingly, Riel insisted that the French phrase *droits des gens* "is very expressive and alludes to our rights as men – a people – a nation. In that capacity we have been ignored" (*New Nation*, 16 March 1870: 2). In his letter to President Grant, Riel (1985a: 116) spoke "in defence of the great principle of self-government." Further on, Riel (*ibid.*: 117) claimed he was "acting upon the highest principles of civil and religious liberty, in asserting the great and sacred principle of self-government, recognized throughout the civilized world as an inalienable right." This took on two forms: a local legislature and participation in federal Parliament. The latter was notably included in the fifteenth clause of the first *List of Rights*, which demanded that, "we have a full and fair representation in the Dominion Parliament" (Appendix II: 280). The other three *Lists* all invariably repeated this demand.

One of the most consistent demands of both the Métis and the Half-Breeds was for elected representation. They had previously put pressure on the HBC to allow for the election of the Councillors of Assiniboia. Insofar as the question 'who is to govern us?' contains "some part of the connotation of the 'positive' sense of the word 'freedom' (which it is difficult to specify more precisely)" (Berlin, 1998: 231), then the 'search for status' was a long-standing claim against the Council of Assiniboia. In fact, it was the main reason for which the Half-Breeds were willing to support the Métis. Before the first Convention, an unidentified spokesman of the Métis at the barricade informed a reporter: "We wish to govern ourselves. We will accept no compromise" (Bumsted, 2003a: 71). Begg wrote on 30 October 1869 that the "general sentiments of the people is to be allowed to elect their own Councilmen, and have their proper rights as a free people respected by the new Government" (Bumsted, 2003b: 88). During the Convention of Twenty-Four, several Half-Breeds expressed support for the Métis Resistance on this basis. On 20 September 1869, Thomas Bunn "avowed his intentions openly today which were to stand up for the rights of the people which in a few words was a full and elective representation at the council board of the country. Maurice Lowman another delegate did the same thing as well as Mr.

McKenney, the representative for Winnipeg Town” (Morton, 1969: 174). On 30 November 1860, William Tait is reported as expressing the same sentiments (ibid.: 191). The priority of the Half-Breeds – and the principal reason why they were willing to support the Métis – was to fight for an elected assembly, in other words for full political rights. On 3 November 1869, Provencher reported to McDougall that the Métis had “for many years now agitated the question of electing their representatives in the Council of Assiniboia, and now were resolved to take advantage of the recent changes to realise that desire” (Canada, 1870a: 28).

In effect, all four *List of Rights* insisted on the right to self-government. The first article of the first *Lists of Rights* was for the “right to elect our own Legislature” (Appendix II: 280). The fifth article of the second *List* demanded to be “governed, by a Legislature [elected] by the people, and a Ministry responsible to it, under a Lieutenant-Governor” (Appendix II: 281). While the third *List* did not mention so explicitly the right to elect the local Legislature, it was implicit in the demand for provincial status in the first article, and explicit in the ninth article concerning the eligibility “to vote at the election of members for the Local Legislature and for the Canadian Parliament” (Appendix II: 282). As we have seen, the first article of the fourth *List* demanded that “this province be governed: 1) By a Lieutenant-Governor, appointed by the Governor-General of Canada; 2) By a Senate; 3) By a Legislature chosen by the people with a responsible ministry” (Appendix II: 284).

More importantly, the Métis put into practice an elected government. Riel’s letter of 6 October 1869 spoke of the Métis National Committee as “the representatives of the métis population of Red River” (Morton, 1969: 412). At a meeting held in the Fire Engine House on 26 November 1869, a certain Michael Powers requested Riel “to state to the people the source whence he drew his authority under which he is at present acting.” The secretary of the Métis National Council “stepped forward, and in the course of a somewhat protracted speech in English, stated substantially that he drew his authority, as did all other constitutional rulers, from the people” (Bumsted, 2003a: 130). In the *Declaration*, it was claimed that “la seule autorité légitime aujourd’hui dans la Terre de Rupert et du Nord-Ouest est l’autorité provisoirement accordée par le peuple à nous ses représentants” (Riel, 1985a: 40).

Interestingly, the Protestant parishes had a more Usonian idea of delegation¹²⁵ than the Catholic, which was more ‘Burkean’.¹²⁶ At the Convention of Twenty-Four, the parishioners gave them written instructions that they “were to explain, first, that they disapproved of all the acts committed, and, secondly, that they would not join in forming an independent Government” (Canada, 1870a: 54). When Riel again proposed forming a provisional government on 24 November, the “English say they must consult their respective parishes. That their instructions do not authorize them to take such action” (Morton, 1969: 427). This may be why the Convention of Forty was so hesitant to elect a President even if they had already accepted the creation of a provisional government.

In order to understand the importance of this particular demand, it is important to understand the opposition to it in the federal Parliament. For example, on 7 May 1870, McDougall first objected to the Bill as “premature, and thought it should only be proposed at the end of four or five years” (Canada, 1870b: 1437). In a position similar to that of Macdonald’s initial compromise, he thought Parliament “should provide such a Government as was suited to the wants and numbers of the population, and when it was found that they had grown out of their district and municipal system, and were ready to bear the expenses of a Provincial system, let the House give it to them” (ibid.).

Realising, however, that such amendments were unlikely, McDougall simply suggested amendments with the obvious intention of putting the government in the hands of emigrants from Ontario as soon as possible. In the alternative, he pleaded in favour of both extending the franchise to include all residents at the time of elections, and not just householders, and limiting the first Legislature to a two-year term instead of four (ibid.: 1437). If all went well, within two years the immigration from Ontario would have sufficiently increased the white, Protestant and English-speaking population to form the majority. In terms of the franchise, McDougall worried out loud in the House on 9 May that the “requirement of one year’s

¹²⁵ According to Bailyn (1992: 161-175), the Usonian conception of representation was one of attorneyship where delegates were trustees of their constituents and sent to defend local interests. Although Anglican minister Samuel Seabury’s expressed the opinion in 1774 that it was “republican by its very nature and tends to the utter subversion of the English monarchy” (qtd. in Bailyn, 1992: 175), it in fact puts particular interests above the common good.

¹²⁶ Edmund Burke held that Parliament was not “a *congress* of ambassadors from different and hostile interests” but rather “a *deliberative* assembly of *one* nation, with *one* interest, that of the whole, where, not local purposes, not local prejudices ought to guide, but the general good, resulting from the general reason of the whole” (qtd. in Bailyn, 1992: 163).

residence would deprive the best settlers of a vote, while leaving it in the hands of the less educated inhabitants would drive away emigrants” (Canada, 1870b: 1453).

While Joseph Howe criticised McDougall of wanting to “establish a grand sort of paternal despotism” (Canada, 1870b: 1480), his own plan was to produce the same outcome. He stressed the fact that McDougall was trying to implement a “machinery which has not hitherto been tried in any of the British Provinces” (ibid.: 1480). While McDougall called the Métis who supported the Resistance, “the most disreputable inhabitants of the country” (ibid.: 1455), Howe wrote to McDougall on 31 October 1869 that “the more influential elements of society” were “sufficiently mixed and heterogeneous enough to require delicate handling, but they must form the basis of any successful government” (ibid.: 1473), at least in the short term. In the long term, he had “no doubt they can be organized and utilized, till the foundation is widened by immigration” (ibid.).

These remarks in the House can be associated with Tocqueville’s ideas concerning the use of martial law in Algeria. While he criticised its general application to all inhabitants because it discouraged French settlement (Kohn, 2008: 263), he endorsed “a two-tiered system of civilian government/civil rights for European settlers and martial law/*régime d’exception* for natives” (ibid.: 267).¹²⁷ Similarly, the Métis were deemed unfit for self-government and, while being considered British subjects, were to be held in a ‘state of exception’ until they were deemed civilised enough to enjoy the full political rights of other British subjects.

5.4. Citizenship

The question of the rights and duties of citizenship is of course implied in the popular principle and the demand for full political rights. While both discursive republicanism and political liberalism share this common goal, the case of the Métis is more in line with a more robust idea of citizenship. In the first place, there is more emphasis on the theme of corruption and on the common good than one would expect in a purely liberal account of citizenship. Secondly, the Métis had effectively practiced a citizen-soldier type of citizenship throughout the nineteenth century and most importantly during the Resistance itself. Finally,

¹²⁷ It is interesting that the first Governor of the Selkirk Settlement, Miles Macdonell, suggested to Selkirk that martial law be applied in the new Settlement (Gibson, 1995: 257).

while much emphasis has been placed on Métis land claims in the historiography, this is most often interpreted in terms of an οἶκος, that is in terms of economic security in the private sphere rather than as a source of political rights and political independence in the public sphere.

Riel evoked the idea of active citizenship very much in the form of positive liberty as non-domination. He essentially accused his compatriots of being ἴδιαι, that is, with being concerned with their particular, private affairs rather than with the common good. It was reported in the Montreal Herald edition of 24 November 1869 that, in a speech that he made to the Métis from the steps of the Cathedral of St. Boniface on 31 October, Riel told his fellow Métis that

[...] if they were as he could wish to see them, he should propose by all means Mr. McDougall should be permitted to enter and comfortably establish himself in the Settlement. But he was aware that in that case his hearers would go on with their accustomed occupations without regarding their political rights, and the only means he could imagine as likely to rouse them was to force them to take some such action as that contemplated. Once aroused he had little fear of them [...]. He said their opposition to impending changes must begin somewhere, and it had been determined to commence it by opposing the entrance of the future Governor (qtd in Morton, 1969: 39, note 2).¹²⁸

In his deposition to the Select Committee, Dennis reported similar activity on Riel's part some four weeks earlier: "Mr. John McTavish informed me on Sunday afternoon [3 October] following my interview with Riel [on 1 October], that he [Riel] had been haranguing the people at the church door in St. Boniface, that forenoon, inviting them to organize and prevent the Canadian Government coming in until their just claims were recognized and settled" (Canada, 1874: 186). What is interesting about Riel's behaviour here is not only that it brings to mind both the Machiavellian idea that the people's natural inclination is to be concerned with their private affairs, as well as the Aristotelian idea that the particular duty of the magistrates is to make a far away danger appear closer than it actually is in order to incite the people to be vigilant.

5.4.1. Virtue: the μῆτις of the Métis

¹²⁸ It is interesting that Riel once again insisted that their opposition "must begin somewhere", just as he had stated when he stopped the surveyors. This emphasises once again that it was not the surveys *per se* that Riel opposed.

One of the themes that can be identified in the political discourse during the Resistance is that of the common or the public good. The entire *Protest of the Peoples of the North-West* reads like a condemnation of the ‘corruption’ of the members of the Canadian faction. Here, Riel opposes those who work for the common good and those who work for their own selfish interests. The *Protest* is “a fitting occasion to demonstrate the difference between their principles and ours” (Appendix II: 289). Riel also exclaims that the members of the Canadian faction “concern themselves with the Confederation only so far as they believe it necessary to the success of their plans, of which the aims are too personal and too exclusive to be just!” (ibid.: 290). Further on, he adds, they

[...] flattered themselves with the shameful hope of being able to combine *their selfish projects* with those of Imperial policy in British North America. There is one thing they have forgotten: the policy of a government having to concern itself with *the general interests of society*, without distinction of language, of origin, without distinction of religious belief, is always incompatible with *the restricted views of individual interest*, when the latter, in place of imposing itself on the former, is not entirely subordinate to it (ibid. Emphasis added).

Corruption in this very sense was one of the many tools used by Canadian Prime Minister, John A. Macdonald, in his attempts to undermine the Resistance. As was the case in England, in the thirteen colonies as well as Upper and Lower Canada, the tool was that of the power of appointment of the Crown. In a letter of 20 November 1869 to McDougall, he mentioned this “man Riel who appears to be the moving spirit is a clever fellow and you should endeavour to retain him as an officer in your future police” (Morton, 1969: 80, note 3). Here, Macdonald was attempting to use the same method of co-optation that the HBC had used with a certain success for fifty years. As Morton (ibid.: 80-81) astutely observed, if the “appointment of *métis* to office was indeed one object of the Resistance, [...] it was political office as leaders of their people that Riel and his colleagues desired.” On 12 December 1869, Macdonald also privately commissioned Donald Smith “to buy off the insurgents, or some of them, with money or jobs” (ibid.: 83), in other words to ‘corrupt’ them in the sense of appealing to their individual interests. On 6 January 1870, Malmros reported that Salaberry had attempted to bribe Riel, but failed (ibid.: 83, note 5). Using such methods, Smith managed to divide the Métis and would have probably succeeded in undermining the Provisional Government if it had not been for the intervention of the clergy (Morton, 1969: 90-91). In *La petite loterie*, Stéphane Kelly (1999: 163-165) shows how

Lord Durham (2004: 162) recuperated Adam Smith's (1976: 623) reference to "the petty prizes of the paltry raffle of colonial faction" as opposed to "the great prizes which sometimes come from the wheel of the great state lottery of British politicks." That is, using the power of appointment of the Crown as a means of providing an outlet to men of ambition.¹²⁹

This condemnation of putting private interests before the public good was also one of the reasons Riel was critical of the governmental powers of the HBC. He specified, however: "I do not say that the Company should be crushed, [...] but we must keep them on the same footing as the other merchants" (*New Nation*, 11 February 1870: 2-3). In other words, no private company should be allowed to determine public policy, since it will inevitably put its own particular interests ahead of the common good. This is clear in Riel's comment that the Governor and Committee in London, in order to "serve their interests and purposes, they endeavoured to subvert ours" (ibid.: 3). In Riel's eyes, it was the people, that is, "the Half-Breeds of the country [who] must govern, with the other portion of the people if they are together" (ibid.).

These were not just hollow words or rhetorical flourishes. More convincing than any discourse on the duties of citizenship and the need to make sacrifices for the common good is the behaviour of many Métis during the Resistance. After the Métis set up the barricade to prevent McDougall's entry into the Settlement, Begg wrote to the editor of *The Globe* on 10 November 1869 that some "idea can be formed of the earnestness of these French people when you learn that many of them have [...] been out on guard eighteen days; sleeping at night on the snow, with no tent or other covering except their ordinary clothes – and this without the least prospect of pay" (Bumsted, 2003a: 88). It was precisely this kind of rustic simplicity that Machiavelli (1997: 52) sought when he expressed his conviction that, "[w]ithout doubt, anyone wishing to establish a republic at present would find it easier among mountain people, where there is no civil society, than among men who are used to living in a cities, where civil society is corrupt; a sculptor will more easily extract a beautiful statue from a rough piece of marble than he can from one badly blocked out by others."

¹²⁹ In all fairness, it must be said that Aristotle (1932: 353) pointed this out long before Smith.

5.4.2. Local militia

All the while speculating that the settlers might “raise from among themselves a small regularly armed force of say 1,000 troops,” this same Oscar Malmros seemed to doubt such an eventuality when he wrote on 11 September 1868 that, “the people have no political experience, little talent for organization and hardly enough political vitality to incline them to sustain the burdens which an insurrection might necessitate” (Bowsfield, 1968: 82). He nevertheless observed that the “country is easily defended against a Canadian invasion” since at “present there is not a single [British] soldier in the country” (ibid.). Ironically, he reported on 6 November 1869 that “about 200 armed men took an oath to resist Governor McDougall’s coming into the country” on 20 and 21 October and that since then “the armed force has increased to 600 men” (ibid.: 86-87).

It is fairly well established among historians that the Métis National Committee was organized “on the semi-military lines of the buffalo hunt.” (Stanley, 1961: 69). In a like manner, Trémaudan (1984: 58-9) spoke of a “gouvernement d’une simplicité patriarcale dont les chefs et les sujets comprenaient, cependant, toute l’importance dans les moments de pression et de crise, même en dehors de la chasse ou de la guerre.” Furthermore, it was “en fonction dans les cas de nécessité seulement” and “cessait d’opérer avec la fin de la chasse, des difficultés à surmonter, des dangers à conjurer ou des hostilités à repousser. D’où son nom de *gouvernement provisoire*” (ibid.: 60). The buffalo hunt made the Métis “politically and militarily the strongest force in the West” (W.L. Morton, 1980: 65). This was “confirmed by the use of the métis as the bulwark of the colony against the Sioux, and their consequent realization that they were, in the absence of regular troops after 1861, the one organized armed force in the Settlement” (W.L. Morton, 1956: 15-16). It was the “buffalo hunt, with its necessary rules and strict discipline,” that gave the Métis “an organization which may be termed military, and which might be turned to political objectives, as in 1849, 1869 and 1885 it was” (Morton, 1937: 98). In effect, according to Ritchot, the “old custom of the country was that when a difficulty arose in which it was necessary to take up arms, the inhabitants used to organize of their own accord, after the manner in which they organized for the hunting in the prairies” (Canada, 1874: 69).

As Morton (1967: 121) remarked, to “oppose a regime they distrusted, they turned to the ancestral organization of their people, the council of the buffalo hunt.” For MacLeod and

Morton (1974: 113), the Métis “were a nation in arms, whose annual organization in the buffalo hunt gave them a primitive but effective government, and a military formation admirably adapted to the plains. [...] In this organization lay the strength which was to make them the decisive element in Red River in the rebellions of 1849 and 1869.” Ritchot informed Georges-Étienne Cartier that the “council of the nation was assembled, and it was resolved to organize a military force after the custom of the country in time of danger” (qtd. in Morton, 1967: 121). As early as 1859, when he led the British expedition to the North-West, John Palliser (1969: 50) had foreseen that should

[...] there ever be occasion for a military force to be kept up in the interior, an efficient corps of mounted troops could be raised at Red River; which, for rapid movements and reconnoitring or outpost duty in a country where the means of subsistence for man and horse have to be drawn from the wilderness, it would be particularly adapted, while it would be difficult to find a class of people more suited to this kind of service than the half-breeds. The raising of such a force on an emergency would be a task of very short duration, as the general fire-arms in use in the country are all of one calibre, and a large store of ammunition, including ready-made bullets, is always on hand.

The Métis had a long practice of organising a sort of provisional government during the buffalo hunt and it was this structure upon which the Métis National Committee was founded. During the Convention of Twenty-Four, the “French say that it has always been their custom to take up arms to repel all who approached the Colony with adverse intent. As the Indian war parties have been repulsed so Mr. McDougall will be” (Morton, 1969: 421). That their military capacity gave the Métis a claim to the country seems apparent when Riel stated that, “[...] we are faithful to our native land. We shall protect it against the dangers which menace it. We wish that the people of Red River be a free people” (W.L. Morton, 1969: 421). Although the source of this argument can undoubtedly be traced back the Fur Trade War, it was present in the political discourse in 1850. Alexander Ramsey, Governor of Minnesota, recorded on 7 November 1851 that the Métis believed that, “it was they who possessed the country really and who had long defended and maintained it against encroachment of enemies” (White, 1999: 38). It was repeated in the *Declaration* that “we have always heretofore successfully defended our country in frequent wars with the neighboring tribes of Indians.” In the *Proclamation to the Inhabitants of the North and the North-West* of 7 April 1870, Riel speaks of, “our aspirations and our existence as a people” and of having rendered “our native land to our children” with the use of military force (ibid.: 77-8). In the *Circular Letter to the People of the North-West*, Louis Schmidt and Captain

Gay repeat much of the language of the *Declaration*, writing, “our army, although few in numbers, has always sufficed to hold high the noble standard of liberty and our native land” (W.L. Morton, 1969: 522). Further on, they claim that the Provisional Government has “an undisputed hold over half a continent; the expulsion or annihilation of the invader has just restored our native land to its children” (W.L. Morton, 1969: 523).

In terms of the relation between political and social organisation of the buffalo hunt on the one hand and republican thought on the other, Tully (1988: 23) has reminded us how “Wittgenstein left us with a sublimely general description of [the relation or relations between political thought and political action]: a way of acting, a form of life, lies at the bottom of a language-game.” By this he meant that, “although language-games lack rational foundations they do have practical foundations; they are grounded by being woven into human activity and practices” (ibid.). In other words, republicanism is not simply a way of thinking, but a way of being, or what could be termed a collective *habitus* (Elias, 1992). For this reason, what I want to emphasise here is that hunting was seen to favour the development of a particular ἀρετή, or excellence, in classical political thought, one that was closely related to the notion of μῆτις, or ‘cunning’.

Begg described the Métis as being trained “from infancy to hunting, trapping, trading, tripping, fishing, etc.” (Bumsted, 2003a: 126). In the *Laws*, Plato (1926b: 121) wrote that the best kind of hunting was “the hunting of quadrupeds with horses and dogs and the hunters’ own limbs, when men hunt in person, and subdue all the creatures by means of their own running, striking and shooting” because it alone “cultivate[s] the courage that is divine.”¹³⁰ Similarly, although Aristotle thought the agricultural class was most valued of the different classes of the *demos*, due to its rustic virtue and military potential, he also mentioned another class. For Aristotle (1932: 503), after “the agricultural community the best kind of democracy is where the people are herdsmen and get their living from cattle; for this life has many points of resemblance to agriculture, and as regards military duties pastoral people are in a very well trained condition and serviceable in body and capable of living in the open.”

¹³⁰ Plato (1926b: 121) notably condemned “hunting by sea, or for angling, or for ever pursuing water animals with creels,” “snaring birds,” “night-stalking,” or mastering the “wild force of beasts by nets and traps” (ibid.). As Détiéne and Vernant (1974: 40) have pointed out, the reason Plato condemned these forms of hunting is because “toutes ces techniques développent des qualités de ruse et de duplicité qui sont aux antipodes des vertus que la cité des *Lois* exige de ses citoyens.”

While the Métis were not quite a pastoral people, they did get a living from cattle and were used to living in the open.

Xenophon (1968: 373) also valued hunting and charged “the young not to despise hunting or any other schooling. For these are the means by which men become good in war and in all things out of which must come excellence in thought and word and deed.” To be sure, Xenophon’s idea of hunting was an aristocratic one, similar to that of which Plato approved (1926b: 121). Nevertheless, it is worth quoting Xenophon (1968: 445) at length concerning “the advantages that those who have been attracted by this pursuit will gain:”

For it makes the body healthy, improves the sight and hearing, and keeps men from growing old; and it affords the best training for war. In the first place, when marching over rough roads under arms, they will not tire: accustomed to carry arms for capturing wild beasts, they will bear up under their tasks. Again, they will be capable of sleeping on a hard bed and of guarding well the place assigned to them. In an attack on the enemy they will be able to go for him and at the same time to carry out the orders that are passed along, because they are used to do the same things on their own account when capturing the game. If their post is in the van they will not desert it, because they can endure. In the rout of the enemy they will make straight for the foe without a slip over any kind of ground, through habit. If part of their own army has met with disaster in ground rendered difficult by woods and defiles or what not, they will manage to save themselves without loss of honour and to save others. For their familiarity with the business will give them knowledge that others lack. Indeed it has happened before now, when a great host of allies has been put to flight, that a little band of such men, through their fitness and confidence, has renewed the battle and routed the victorious enemy when he has blundered owing to difficulties in the ground. For men who are sound in body and mind may always stand on the threshold of success. It was because they knew that they owed their successes against the enemy to such qualities that our ancestors looked after the young men” (ibid.: 443-5).

Xenophon added that, of “such men, are good soldiers and generals made” and that “keen sportsmen fit themselves to be useful to their country in matters of vital moment” (ibid.). In doing so, Xenophon was replying to those who disapproved of hunting “because it may lead to neglect of one’s domestic affairs” (ibid.). Xenophon replied to such critics that “the state is necessarily concerned both in the safety and in the ruin of the individual’s domestic fortunes. Consequently such men as these save the fortunes of every other individual as well as their own.”

In the Thirteen Colonies, it was believed that “virtue was fortified by the simplicity of life and the lack of enervating luxury” (Bailyn, 1992: 83). To be sure, there existed a “picture of the colonists as provincial rustics steadily degenerating in a barbarous environment distant from civilizing influences,” among the “peoples who had managed to retain their liberty in

the face of all efforts of would be tyrants propelled by the lust for power had been doughty folk whose vigilance had never relaxed and whose virtue had remained uncontaminated” (ibid.: 84). Among these, one notably finds the “Swiss, a rustic people,” and the Saxon ancestors, the ‘ordinary people of England’ who were ‘simple and sturdy’ (ibid.: 65, 67). At the same time, the colonies were seen as “a special preserve of virtue and liberty” due to the “refreshing simplicity of life and the wholesome consequences of the spread of freehold tenure” (ibid.: 84). From this point of view, the ‘rustic blemishes’ due to exposure to “the open, wilderness environment of America” that was often seen as causing deviations and retrogressions “back toward a more primitive condition of life” were reinterpreted as “the marks of a chosen people” (ibid.: 20).

When Isaac Cowie¹³¹ (1993: 170) commented on the ‘Métis’ Warlike Virtues’, he specified that they “often were most favourably commented upon by military men who hunted and travelled with them in the old days. All alike expressed surprise at the excellent discipline they maintained among themselves when on the grand annual buffalo hunt, and British officers mention them in their reports as magnificent horsemen, and splendid marksmen, whose services would be invaluable in war on the frontier.” Similarly, Morton (1969: 53) described them as a “rude, even primitve, following, but hardy and brave, equipped with horse and muzzle-load buffalo gun and possessing from hunt and trip an ingrained habit of common action and an instinctive tactical skill which made them a formidable force.” An example of the discipline of the militia during the Resistance can be found in Begg’s journal entry of 16 November 1869. One “of the men on guard at Fort Garry attempted to desert but was caught in the act and condemned as a punishment to walk up and down a considerable amount of time bearing a tin of water in each hand. The disgrace of the punishment was meant to serve as a warning to deserters for the future and goes to show the discipline amongst the French in arms” (W. Morton, 1969: 169-170).

Article 8 of the first *List of rights* demanded that the military “be composed of the people now existing in the Territory.” Article 12 of the second *List* demanded that “the military force required in this country be composed of natives of the country during four years” (Appendix II: 281). It was however lost by a vote of 16 yeas to 28 nays, and consequently

¹³¹ Isaac Cowie (1848-1917): Born at Lerwick, Shetland Islands, he was educated in Edinburgh and attended Edinburgh University for one session in the study of medicine. He entered the service of the Hudson’s Bay Company in 1867. He was first stationed at Fort Qu’Appelle.

struck out of the list. Riel seems to have accepted this defeat, as the third and fourth *Lists* did carry no mention of this demand. Fortunately, the debate around article 8 was recorded. It reveals the reasoning behind it. Had the militia been composed of local inhabitants, there would have been no need to send a military expedition to Red River. With the Métis militia in control of ‘violence of conservation’, the transition of power would have taken place between the Provisional Government and Lieutenant-Governor Archibald. As the institution of the militia would have remained in place under both the Provisional and the Provincial Government, it would also have provided an institutional continuity between the two and thereby lent some legitimacy to the former.

5.4.3. The Role of Real Property

During the Resistance, there was no other question that was as important as that of land claims. As W. Morton (1967: 154) put it, the land question “was the fundamental issue of the times. Whoever possessed the soil would give the new province their language, faith, and laws.” In his letter of 6 October 1869, Riel claimed the Métis, “being settled, working, and living on the lands which they have assisted the [Hudson’s Bay] Company [to open up, the people] or Red River, hav[e] acquired in the above manner [indisputable rights in that country]” (W. Morton, 1969: 412).¹³² As we have seen, the ‘list of rights’ that Bown sent Macdonald notably demanded that “all their claims to land shall be at once conceded” and that “200 acres shall be granted to each of their children” (A. S. Morton, 1973: 877). Pierre Delorme, a Métis who served as one of the delegates from Pointe-Coupée to the Convention of Forty (Begg, 1871: 247), insisted that “titles be granted to the lands the Métis occupied” and “that 200 additional acres be given for each of their children” (Pannekoek, 1991: 192). When Ritchot negotiated the surrender of the Indian title of the Métis, he also asked for 200 acres for each Métis adult and 200 acres for each child for several generations (W.L. Morton, 1969: 142).

The first *List of Rights* demanded a “free homestead pre-emption law” (Appendix II: 280). The fifth article of the second *List* also demanded a “homestead and pre-emption law” (ibid.: 281) while the eighteenth article demanded that “the Local Legislature of this territory

¹³² The method of acquisition of rights in the country is very much that of Roman law, which inspired the Civil code of Lower Canada. To what degree Riel became familiar with the Code while apprenticing for Laflamme is a matter of speculation.

have full control of all the lands inside a circumference having upper Fort Garry as a centre and that the radius of this circumference be the number of miles that the American line is distant from Fort Garry” (ibid.: 282). In the original draft version, this article had demanded that the “two mile hay privilege be converted into fee simple ownership” (*New Nation*, 11 February 1870: 1). Even though the third *List* demanded entry into the Canadian federation as a province, it specified in the eleventh article that, “the Local Legislature of the Province of Assiniboia shall have full control over all the public lands of the Province” (Appendix II: 283). The fourth *List* repeated in the eleventh article that “the Local Legislature of this Province have full control over all the lands of the Northwest” (ibid.: 285).

On 5 July 1869, in the parish of Pointe-Coupée, the Métis told a “few newly-arrived English-speaking settlers” who tried to establish themselves in the area, that a ‘law’ made by the English-speaking section of the Settlement obliged “those of French speech to abandon the Lower part” of Red River and “which gives us the Upper section of the [Red] River” (qtd. in Dorje, 1974c: 58). On 15 December 1869, Reverend Louis Raymond Giroux echoed these claims in the *Courrier de Saint-Hyacinthe*:

Il y a quelques années la paix était loin de régner dans notre pays, et cela, à cause du mélange des deux populations différentes par la langue, les mœurs et la religion. Alors dans l’intérêt de la paix et d’un commun accord, les Métis canadiens et les anglais firent une convention en vertu de laquelle ceux-ci occuperaient *le bas de la Rivière-Rouge depuis Fort Garry*, et, ceux-là, le haut de cette même rivière. Les métis anglais tenaient tant à cette convention qu’ils ne permirent jamais à aucun Métis canadien de s’établir parmi eux” (qtd. in Martel, 1984: 62. Emphasis added).

There are two aspects to keep in mind here. The first is that both of these sources mention that the upper section of Red River was reserved to the Métis for future settlement. This is corroborated by other sources, such as Dennis’ report of 11 October 1869 to McDougall that the Métis were claiming, “the country on *the south side of the Assiniboine* [...] as the property of the French half-breeds” (Canada, 1870a: 7). Delorme also apparently wanted “the tract of land lying south of the Assiniboine River to be set aside as a self-governing colony free from all taxation” (Pannekoek, 1991: 192-193). In an interview with the newspaper correspondent John Ross Robertson of the *Daily Telegraph* of Toronto, MacDougall claimed that the “The object of the half-breeds, at least of their leaders, seemed to be to secure from the Canadian government a large tract of land between Pembina and Fort Garry” (W. Morton, 1969: 480).

In terms of the second aspect, while the accounts differ somewhat in that one mentions a ‘law’ that was unilaterally imposed and the other an accord that was agreed upon, they nevertheless both mention the division of the territory on a linguistic and confessional basis. In terms of this accord to divide the territory, Robert Machray, the Anglican bishop of Rupert’s Land alluded to it when he wrote on 11 March 1870 that “the rights that have hitherto been put forward by the French [Métis] and debated are not what they really care for, but that they wish for a Section of the country to be restricted to the French Population” (ibid.: 506). As a witness under oath during the trial of Ambroise Lépine for the murder of Thomas Scott, Machray repeated that, “Riel called upon me a day or two before the execution of Scott and said the French wanted land set apart exclusively; discussed on two points, desirability of a Province and of reserves; I think the desire for reserves was the cause of all the trouble; the French did not wish to be mixed [with the English], but to be all together” (Elliot and Brokovski, 1974: 52). In terms of reserves, Pierre Thibert¹³³ thought that “reserves of land should be given to Half-breeds for their rights” (ibid.). A similar reference to this ‘custom’ is also found in a letter Riel wrote to Ritchot on 19 April 1870, instructing him to insist that “that the country be continued to be divided in two, in order that this custom of the two populations living apart may be kept as a safeguard of our most endangered rights” (Morton, 1969: 137, note 1) and that “this division of the country be done solely under the authority of the Legislature.”¹³⁴

Furthermore, in the notes that Canadian federal Prime Minister, John A. Macdonald, took during the negotiations, he used the very same expression, “having regard to the usages and customs of the country” and specified that the land was to be “placed at the disposal of the local Legislature” in a draft version of s. 31 (Sprague, 1988: 58).¹³⁵ Macdonald’s language is not only remarkably similar to that of Riel’s, but also to the fifth clause in the fourth *List of Rights* which Ritchot brought with him. This clause specified that “all properties, rights and privileges enjoyed by us up to this day be respected, and that the recognition and settlement of customs, usages and privileges be left exclusively to the

¹³³ Métis delegate to the Convention of Forty from St. Paul’s.

¹³⁴ “Exigez que le pays se divise en deux pour que cette coutume des deux populations vivant séparément soit maintenue pour la sauvegarde de nos droits les plus menacés. Cette mesure, je n’en doute pas, va faire bien des grimaces, mais pour que la grimace soit plus complète, ayez la bonté d’exiger que cette division du pays soit faite par l’autorité de la Législature seulement” (Riel, 1985: 86).

¹³⁵ Macdonald initially informed the House of Commons that the land grant was to be placed “under the control of the Province” (Canada, 1870b: 1330).

decision of the Local Legislature” (Appendix II: 284).¹³⁶ Similarly, the fourteenth article of the first *List* demanded that, “all privileges, customs and usages existing at the time of the transfer be respected” (ibid.: 280). The seventeenth article of the second *List* also demanded that “all the properties, rights and privileges as hitherto enjoyed by us be respected, and that the recognition and arrangement of local customs, usages and privileges be made under the control of the Local Legislature” (ibid.: 281). Finally, the fifth clause of the third *List* demanded that “all properties, rights and privileges enjoyed by the people of this Province up to the date of our entering into the confederation be respected, and that the arrangement and confirmation of all customs, usages and privileges be left exclusively to the Local Legislature” (ibid.: 282).

The question is *why* the Métis insisted on this issue as much as they did. Beyond the question of claims to derivative Indian title, the Métis did not claim the status of ‘Indians’ under colonial law, and even explicitly rejected it. This is perfectly understandable in the colonial context of the times: being ‘Indian’ in the legal sense of the term meant being treated as a minor, that is, of being ‘under the jurisdiction of another’. It was not a social or legal status that anyone – Aboriginal peoples themselves, or women for that matter – particularly wished for. First of all, the Métis did not so much claim land for themselves as for their children. MP Francis Hincks stated what everyone in the District of Assiniboia and the House knew at that time:

It was perfectly clear that when the difficulties were settled and the Queen’s authority established that *a vast migration would be pouring into the country*, from the Four Provinces but *principally, there was no doubt, from Ontario*, and *the original inhabitants would thus be placed in a hopeless minority*, and of this, they themselves had no doubt. If this were correct it was perfectly obvious that those who had been occupying the Territory all their lives would naturally take this view: that *they were to be entirely swamped and their influence destroyed*, that all their lands were to be taken, not as in other Provinces, and that they would have to take simply a moderate portion of land for the settlers and their children, not for one class but for all (Canada, 1870b: 1317. Emphasis added).

If the demand for a territorial enclave and most notably land that would be reserved for future generations was so important, it was because land was the key to self-government at

¹³⁶ If Macdonald’s notes really are merely a translated record of Ritchot’s demands, as Flanagan claims (1991a: 36), then this would seem to confirm that Ritchot based his demand on art. 5 of the *List of Rights*. That being said, Macdonald’s notes reflect the agreement that Ritchot refers to in his journal (548) and in his speech to the Legislative Assembly of the Provisional Government (*New Nation*, 1 July 1870: 2-3).

the time. In both the dominant ideology and the practical political context, political rights depended entirely on owning land. Without land, one could neither vote nor run for office. With an influx of a ‘foreign’ population, the Métis wished not only to secure their own political rights, but those of future generations as well. In both cases, the goal was not only to maintain a certain position in society, but also to maintain a sizable representation in the local Legislature. This becomes clearer when one considers the debate over the franchise. The nineteenth clause of the original draft version of the second *List of Rights* demanded:

18. That every male person, 21 years of age, resident in the country for one year, shall be entitled to vote for the election of a member to serve in the Legislature of this Territory and in the Parliament of the Dominion (*New Nation*, 11 February 1870: 1).

The only condition that had to be fulfilled to enjoy the right to vote was one year of residency in the Territory. What was unusual about this was that it did not demand any property requirement and in this was more Usonian than Canadian. What was at stake here was very clear when Riel began the debate with the remark that, “we must seek to preserve the existence of our own people. We must not, by our own act, allow ourselves to be swamped. If the day comes when that is done, it must be by no act of ours” (ibid.). Initially, Riel made no mention of any property qualification as a pre-condition to the franchise, but pushed for the period of residency be increased to three years (ibid.). When Schmidt moved to amend the clause, Dr. Bird moved to replace this with “every British subject being a householder after one year’s residence in the Territory” (ibid.). Riel then took on a radically democratic position and implied that the poor were more virtuous than the rich: “We cannot look on property as the best test of title to vote. In this country, in fact, the poorer we are, the more honest we are. [...] My own opinion is that the system prevailing in the States is better than that in Canada” (ibid.). Interestingly, Ross agreed with Riel that “we should fence ourselves in such a way as to prevent us from being swamped by outsiders having no stake in the country” and suggested that the clause ought to demand “three years residence and household qualification for all except the present inhabitants” (ibid.). After some discussion over the period of residency and the property qualification, Riel asked the Convention if he could confer privately with Ross on the subject (ibid.; 2). Their amendment, which was adopted without discussion, read as follows:

19. That every man in the country (except uncivilized and unsettled Indians) who has attained the age of 21 years, and every British subject, a stranger to this country who has

resided three years in this country and is a householder, shall have a right to vote at the election of a member to serve in the Legislature of the country, and in the Dominion Parliament; and every foreign subject, other than a British subject, who has resided the same length of time in the country, and is a householder, shall have the same right to vote on condition of his taking the oath of allegiance, it being understood that this article be subject to amendment exclusively by the Local Legislature. (Appendix II: 282).

While it is difficult to know for certain what transpired, it is clear that Riel wanted to both ensure that the largest number of Métis and that as few ‘foreigners’ as possible would be able to vote in the first provincial election. If the three-year residency requirement effectively reduced the number of foreigners who would have the right to vote in the first provincial election, any property qualification risked disqualifying many of those Métis and Half-Breeds who, despite being householders, were not officially entered as property holders in the HBC land register. What Ross was undoubtedly concerned about was that Riel’s proposition would in fact allow many foreigners, such as employees of the HBC who had been in the territory for more than three years, but were not residents, to enjoy the right to vote in the first provincial elections. While one can only speculate on the matter, Ross may have convinced Riel that if they obtained the pre-emption and homestead law as well as control of public lands within the District of Assiniboia, as demanded in the *List of Rights*, the local Legislature would be able to quiet the titles of those householders who were not officially registered with the HBC, all the while locking out ‘foreigners’ who were not householders and had no stake in the future of the new province.

When the Manitoba bill was placed before the House of Commons, the clause concerning the franchise along with the land grant to the children of the Métis were the main targets of the Liberal opposition. When Macdonald presented the draft bill, it contained the property qualification of being a householder, but a residency requirement of one year only. Even this, however, was too much for many members of the House. Young tried to have the residency requirement removed entirely, arguing they should “allow every British subject going to Manitoba, as soon as he became a resident or householder, to exercise all rights of British subjects” (Canada, 1870b: 1387). He also believed the House should limit the first Parliament to two years” (ibid.). In terms of quieting titles, he wanted the date moved back to 12 March 1869, or the day the bargain between Canada and the HBC was reached

(ibid.).¹³⁷ McKenzie put forward an even more radically democratic proposal, suggesting that “every person resident in the Territory at the time of the election” should have a vote and that “it should be residential suffrage not household suffrage” (ibid.: 1421). Like Young, he also “objected to the first Parliament sitting four years” (ibid.). Similarly, McDougall also thought the House “should endeavour to reduce the time of the sitting of the Legislature to two years instead of four, at all events for the first Legislature” (ibid.: 1437). He also proposed extending “the franchise so that instead of restricting it to householders it should extend to residents at the time of elections or a short time previously” (ibid.). While Cartier accepted the proposed amendment to restrict “the quieting of titles to those granted up to the 8th March, 1869” (ibid.: 1442), the other two amendments were voted down on 9 May 1870 (ibid.: 1491). The opposition persisted, however, and brought the franchise question up again the very next day. Ferguson “moved an amendment striking out the residence of one year requisite for qualification” (ibid.: 1493) In his reply, Cartier specified for the first time that “it was the intention to give the vote to bona fide settlers” (ibid.). If Howell “was no advocate for universal suffrage,” he was in favour of “a more liberal policy” (ibid.: 1494). Young again “insisted that settlers going to Manitoba, who should be householders there for one month before the first election, should have a right to cast their vote” (ibid.: 1494-5). Cartier revealed the intentions behind such amendments when he replied that such an amendment “was simply universal suffrage, *and calculated to drown out the half-breeds*” (ibid.: 1496. Emphasis added). McKenzie also distanced himself from universal suffrage, but nevertheless proposed a residency requirement of one month (ibid.).

The final version of s. 17 of the *Manitoba Act, 1870*, read:

Every male person shall be entitled to vote for a Member to serve in the Legislative Assembly for any Electoral Division, who is qualified as follows, that is to say, if he is:

1. Of the full age of twenty-one years, and not subject to any legal incapacity;
2. A subject of Her Majesty by birth or naturalization;
3. And a *bona fide* householder within the Electoral Division, at the date of the Writ of Election for the same, and has been a *bona fide* householder for one year next before the said date; or,
4. If, being of the full age of twenty-one years, and not subject to any legal incapacity, and a subject of Her Majesty by birth or naturalization, he was, at any time within twelve months prior to the passing of this Act, and (though in the interim temporarily absent) is at the time of such election a *bona fide* householder, and was resident within the Electoral Division at the date of the Writ of Election for the same; (Appendix II: 278).

¹³⁷ The deal was actually reached on 8 March 1869.

As Cartier had mentioned, the qualification was not only that of a householder, but of a *bona fide* householder. This condition potentially risked depriving all those who were considered in the government's eyes to be 'squatters' of their right to vote. All the government had to do was delay the confirmation of their title long enough for such 'quasi-citizens' to miss an election or two and the trick would be played. The political and legal fallout, however, that followed the Métis Resistance goes beyond the scope of my thesis.

Conclusion

Prior to the HBC taking over responsibility for Selkirk's Settlement, the Métis had been relegated to an inferior role of 'living tools' that were at the Company's disposal. While their civil rights were largely recognised – as were those of Amerindians at the time – with the exception of the HBC's trade monopoly, they were not only denied political rights, but were considered devoid of any political capacity. The story that is related here is their struggle to obtain political rights and the political vocabulary they used to justify those rights, which, it is argued, was that of republicanism as opposed to liberalism. In order to do identify republican fragments in the discourse of the Métis in the period from 1835 to 1869 and during the Resistance in 1869-1870, I have applied Quentin Skinner's theoretical framework of approach for the study of the history of political ideas. This first involved the reconstruction of a model of rhetorical republicanism based on the conventions in republican literature. The principal conventions that were identified were those of negative liberty and the means of securing it, namely through positive liberty in the form of self-government, the rule of law and the balanced constitution, and the maintenance of virtue in both the Statesmen and the citizenry at large. This involves its cultivation through participation in the militia and the possession of real property.

The analysis of both the diffusion and mobilisation of republican rhetoric in the District of Assiniboia in the period from 1835 to 1869 revealed that through the struggles with the HBC for its civil rights in the form of free trade and the right to contract in 1846 and their struggle for political rights that culminated in the Sayer Trial of 1849, republican vocabulary

was increasingly circulated in the Settlement. The English or Scots Half-Breeds also made republican contributions to the linguistic matrix of Assiniboia, especially following the year 1857. The future political status of the Settlement was divided between Crown Colony status, annexation to the Canada-West or the status of a province in a federation of British North American colonies. On the one hand, the annexation movement in Canada-West introduced or reinforced certain existing republican conventions in the Settlement, while on the other hand individuals like the Anglican Reverend Corbett and the Half-Breed James Ross used the language of English 'country' opposition when agitating for Crown Colony. Somewhere between the two, Georges-Étienne Cartier held out for provincial status of the District in a future federation. The political agitation of the Métis, the Half-Breeds, the Upper-Canadian annexationists, the Canadian faction in the Settlement and the Usonians, along with a small core of Irishmen and a few scattered Frenchmen, provided at least five different potential sources of republican discourse in the Red River Settlement.

The focus of Métis struggles radically shifted in 1868 with the impending annexation of Rupert's Land and the Northwestern Territory as a territory of the fledgling Canadian federal State. When the federal Parliament attempted to create institutions for the North-West Territory that in many ways replicated the institutions of the Family Compact in Upper Canada and the Chateau Clique in Lower Canada prior to the Rebellions of 1837-1838, it rendered the activation of republican conventions all the more appealing and set the stage for the Resistance. Throughout the activities of the Resistance itself, first in the creation and actions of the Métis National Committee, followed by the debates of the first Convention and the content of the first *List of Rights*, then the *Declaration* that established the first Provisional Government, the Métis consistently harnessed republican conventions both to justify the Resistance itself and their struggle for political rights. This included the vocabulary of liberty, and most notably positive liberty not only as self-government, but also as non-domination, which implied the rule of law and full provincial status. In terms of virtue, it is not so much in self-aggrandising speeches that the political virtue of the Métis came to the fore, but in their very actions of risking their lives to support the Resistance with arms.

By way of conclusion, there are four points I would like to bring to the fore in order to initiate a reflexion on the Resistance of the Métis. The first is the parallel that can be drawn

with previous republican resistance movements, most notably in terms of the institutional isomorphism of the governmental structures. The second concerns the very title of my thesis, that of a ‘Machiavellian moment’ of the Métis of Manitoba. The third point considers how to qualify the Resistance movement, as it hangs uneasily between a movement of resistance and a revolutionary movement. Finally, I will comment on Riel’s historical role as a figure of national liberation movement within the context of the Americas.

The HBC was a chartered company that had been granted a monopoly with powers of government, a structure that the temporary government proposed by the Canadian government virtually replicated. This made both the HBC and the proposed temporary government easy targets for republican discourse. William Morton (1937: 95) qualified the HBC’s administration as being a “seigniorial despotism tempered by a Council appointed from among the clergy and leading inhabitants.” In this, the structure of governmental institutions in Red River, notably the concentration of power in the not-so-invisible Crown, was an isomorphic caricature of previous attempts to create ‘absolutist’ regimes either in England or in her Colonies. It was precisely to fight against this type of inequality that neo-Roman ideas were harnessed. As Greer (1993: 121) remarks of the *Canadiens*, “whether they were aware of it or not, these ‘new subjects’ of his Britannic majesty were recapitulating the intellectual voyage of English radicals and American colonists of the eighteenth century, who had also developed a ‘country ideology’ of opposition from the malleable materials of ruling-class thought.” In the seventeenth century both King Charles I and King James II attempted to establish in England herself such a regime. In the eighteenth century, Imperial Parliament attempted to impose such a regime on the thirteen colonies. The logic of the institution of the Crown, and of the Crown dominated parliamentary institutions, were at the root of both the Glorious Revolution in 1689 and the U.S. War of Independence of 1776-83. Similarly, such institutional structures were more or less intentionally reproduced in both Upper and Lower Canada with the *Constitution Act, 1791* (Mancke, 1999: 16-17) and resulted in the Rebellions of 1837-38 (Stewart, 1986: 32).

It is not surprising that, given the institutional structures, the Métis would borrow vocabularies from the Reformers’ and *Patriotes*’ struggle against the Family Compact and the Château clique respectively and both English and American republicans during their struggle against the Crown. It is this isomorphic structure of the government of Assiniboia

that explains, at least in part, the activation of republican rhetoric in Red River. In a sense, the *Charter* of the HBC concentrated power even more than the constitutional arrangements in Upper and Lower Canada, as there was no popular assembly and no separation of powers between the executive, legislative and judicial branches. In retrospect, it is perhaps hardly surprising that a seventeenth-century *Charter*, granted by the very same Charles II that roused republican opposition in England at the end of the seventeenth century, would ultimately provoke a similar reaction in Red River. As Pocock (2003: 478) so poignantly remarked, the “function of every Country ideology was to mobilize country gentlemen and their independent representatives in parliament against the administration of the day, and the rhetoric of virtue employed to this end was invariably as much constitutional as it was moral.” In all cases, such ‘seigniorial despotism’ provoked a movement of republican opposition. It is precisely in this sense that the opposition of the Métis to annexation in 1869 can be qualified as a *resistance*.

In terms of the republican nature of the Métis Resistance, as we have seen, Pocock (2003: 554) provided two definitions of the ‘Machiavellian moment’. The first of these was “the historic ‘moment’ at which Machiavelli appeared and impinged upon thinking about politics.” In this case, Pocock (*ibid.*: vii) specified that it is not so much a matter of Machiavelli’s writings, but rather a Machiavellian mode of thinking about politics that involves “the presentation of the republic, and the citizen’s participation in it, as constituting a problem in historical self-understanding” (*ibid.*). What could be termed the first Machiavellian moment of the Métis occurred in 1849, when the historical self-understanding of the Métis involved the rejection of their status as ‘living tools’ and therefore their right to ‘autonomy’ in the literal sense of ‘making one’s own laws’. This in effect presented both the absence of a *res publica*, a political space where they could participate in decision-making and determine their collective future as problematic. As Kalyvas (2008: 45) has observed, “resistance and revolt are not natural reactions.” If economic exploitation “can lead to distress and dissatisfaction” it must also “be experienced as illegitimate and unjust. It must be viewed, in other words, as undeserved, imposed by a particular institutional and political order that has been created to benefit certain social groups to the detriment of others” (*ibid.*). As W.L. Morton (1937: 99) has remarked, “the old, proud claim of the Métis to be a ‘new nation’ [was an] assertion of dignity, by no means unjustified.” In this regard, Kalyvas

(2008: 45) followed Weber's idea that "individuals become part of political groups and associations by virtue of a common understanding of honor and a shared sense of dignity." However, if it is true that politics "is a quest for dignity [and] an assertion of identity," this does not imply that it is "only secondarily an attempt to conquer the state and to realize one's interests through political means" (ibid.: 44). The Métis' quest for dignity implied an end not only to their inferior social status, but also, and even more importantly, to their inferior political status. This could only be accomplished by 'conquering the State', not only as individual citizens with full political participation rights, but also as a people with a right to political self-determination.

Pocock's (2003: 554) second definition of the Machiavellian moment could be "either of two ideal 'moments' indicated by his writings: the moment at which the formation or foundation of a 'republic' appears possible or the 'moment' at which its formation is seen to be precarious and entail a crisis in the history to which it belongs." What is particular about the Resistance is that both of these 'ideal' moments were simultaneously present during the Métis Resistance, or what could be termed the second Machiavellian moment of the Métis. There is something here of Alexis de Tocqueville's (1988: 87) observation that the French, despite their revolutionary efforts to cut themselves off completely from their past and to begin anew, had in fact "retenu de l'ancien régime la plupart des sentiments, des habitudes, des idées mêmes à l'aide desquelles ils avaient conduit la Révolution qui le détruisit et que, sans le vouloir, ils s'étaient servis de ces débris pour construire l'édifice de la société nouvelle." However, in the case of the Métis, it was not 'à leur insu' or 'sans le vouloir', but through conscious effort that their 'revolutionary government' was built on the 'feelings, habits and even ideas' of the 'old order'. In a sense, the Métis can be seen as an 'archaic' society resisting the "irruption of modern capitalism" which was "generally in the form of liberal or Jacobin reforms (the introduction of a free land-market, the secularization of church estates, the equivalents of the enclosure movement and reform of common land and forest laws, etc.)" (Hobsbawm, 1965: 67). Furthermore, this irruption came "suddenly, as the result of [...] a foreign conquest or the like" (ibid.).

The Resistance was, in a sense, a moment when their 'republic' was 'seen to be precarious and entailed a crisis in the history to which it belongs'. Scholars who have seen the Resistance not so much as a revolution overthrowing the established order, but as an

attempt to resist change and conserve the old order of things are not entirely wrong. In a sense, there was something quasi-‘Burkean’ about the Resistance. Stanley (1961: 74) saw the Métis as “fundamentally a conservative people,” while Woodcock (1976: 8) depicted Riel as ‘Defender of the Past’. Likewise, Flanagan (1978: 159) qualified the *Declaration of the Provisional Government* as being “far more conservative” than the Usonian *Declaration of Independence* and claimed “the Declaration emerges from very conservative antecedents” and therefore that “Dugas and Riel were not revolutionary theorists” (ibid.: 164). Similarly, Bumsted (1996: 101) agreed that, despite its “jaunty air of radicalism, the ‘Declaration’ was fundamentally an extremely conservative statement of the Métis case” and that “it was monarchist rather than republican theory that underpinned the document.”

Like the Glorious Revolution of 1689, the ‘whole care’ of the Métis during the Resistance can be interpreted as being “to secure the religion, laws and liberties, that had been long possessed, and had been lately endangered” (Burke, 1968: 119). According to Begg, the Métis were “sworn to protect the laws as we have been accustomed to have them” (Bumsted, 2003: 88). Perhaps nothing illustrated as much the consideration of “their most sacred rights and franchises as an *inheritance*” (Burke, 1968: 118) as their claims to derivative Indian title. Both their Amerindian ancestry and Catholicism allowed the ‘New Nation’ to construct a ‘*mémoire longue*’ (Bouchard, 2001: 380). Like the Glorious Revolution, the Resistance of the Métis “was made to preserve our *antient* indisputable laws and liberties,” and the “*ancient* constitution of government which is our only security for law and liberty” and his claim that “in what we improve we are never wholly new; in what we retain we are never wholly obsolete” (Burke, 1968: 120). Similarly, the Provisional Government did not innovate so much as draw upon the traditions of the Métis, including the bison hunt, territorial representation based on the parishes, not to mention the blessing and support of the lower Catholic clergy. If Burke (1968: 117) claimed the “very idea of the fabrication of a new government is enough to fill us with disgust and horror,” he would have perhaps seen enough of “the principle of the reference to antiquity” in the Provisional Government that was necessary to anchor its stability. If the Métis claimed the ‘right to form a government for ourselves’, their Provisional Government nevertheless demonstrated a “powerful prepossession towards antiquity” (Burke, 1968: 118).

The Métis constantly proceed on the basis of established customs. It was no coincidence that the Métis National Committee was composed of twelve representatives. This corresponded to the buffalo hunt formation and was exactly what the Métis had demanded in terms of representation on the Council of Assiniboia in 1849. When they called the Convention of Twenty-Four, composed of twelve Francophone and twelve Anglophone delegates, they were again following custom. Even when the Convention of Forty created the second Provisional Government, few changes were made to the administrative and judicial positions of the HBC's government of Assiniboia. The General Quarterly Court was renamed the Supreme Court and James Ross replaced John Black as Supreme Justice rather than 'Recorder of Rupert's Land'. With the exception of Dease, "all Justices of the Peace, Petty Magistrates, Constables, &c. retain their places." Henry McKenney, Dr. Bird and Mr. Bannatyne were confirmed in their respective positions as Sheriff, Coroner and Postmaster. John Sutherland and Roger Goulet were continued in their positions as Collectors of Customs. The General Court was to "be held at the same times and places, as formerly" (*New Nation*, 25 February 1870: 1). As Bumsted (1996: 144) remarked, the "most important element of these recommendations, of course, was the extent to which the new government merely carried on from the old one, particularly in terms of the administration of justice."

Does this 'Burkian bend' confirm the 'conservative' nature of the Resistance? It must not be forgotten that Burke was in fact a Whig, not a Tory. It is arguably because the French Revolution is seen as 'republican' that Burke's critique is most often portrayed as 'conservative'. However, his critique of the Revolution in fact can be seen as a patrician republican critique of ochlocracy, or the tyranny of the majority – and as such betrays traces of the oppositional discourse of the 'Old' Whigs. Burke's (1968: 129) criticism of the French Revolution was mainly due to the fact that "the three orders were to be melted down to one" and that "the whole power of the state was soon resolved in that body," that is the National Assembly. Burke (*ibid.*: 122) bemoaned in a very republican language the fact that the Revolutionaries had abandoned the mixed and balanced constitution:

In your old states [...] you had all that combination, and all that opposition of interests, you had that action and counteraction which [...] from the reciprocal struggle of discordant powers, draws out harmony from the universe. These opposed and conflicting interests [...] interpose a salutary check to precipitate resolutions; They render deliberation a matter not of choice, but of necessity; they make all change a subject of *compromise*, which naturally begets moderation [...]. Through that diversity

of members and interests, general liberty had as many securities as there were separate views in the several orders.

One can see why Viroli (2002: 32-33) believed that French Jacobin ‘republicanism’ “strayed greatly from its classical roots.” The Constituent Assembly had in fact betrayed republicanism in favour of the modern principle of indivisible sovereignty.¹³⁸ As for the reference to Du Voisin in the *Declaration* of 8 December, the latter’s thought in fact is strikingly similar to Burke’s. If he was a royalist, Du Voisin (1796) nonetheless clearly pleaded in favour of government moderated by the rule of law (ibid.: 5), civil liberty (ibid.: 10-11), civil equality (ibid.: 17), the maintenance of the Three Estates (19-20, 76), and real property qualifications as a basis for positive liberty (ibid.: 21). Furthermore, for Du Voisin (ibid.: 88), a “republic founded on the notions of the sovereignty of the people and equality, could be no other than a pure democracy.”

The problem is that if it is true that the unilateral annexation of the Northwestern territory was a moment when the Métis ‘republic’ can be “seen to be precarious and entail a crisis in the history to which it belongs,” it was also a “moment at which the formation or foundation of a ‘republic’ appears possible” (Pocock, 2003: 554). The Métis did, after all, found a new province, and for this reason alone, the Resistance cannot be simply reduced to a conservative movement. In addition, when the Métis replaced the Governor and Council of Assiniboia, it was with modern political institutions. In this regard, Hobsbawm (1965: 58) described the ‘drill’ of modern revolutionary movements that were learned from the French Revolution: “organize a mass demonstration, throw up barricades, march on the town hall, run up the tricolour, proclaim the Republic one and indivisible, appoint a provisional government, and issue a call for a Constituent Assembly.” Similarly, Andrew Arato (1995: 203) reconstructed Schmitt’s five steps of a fully democratic constitution making process: 1) the dissolution of all previously constituted powers; 2) a popularly elected or acclaimed assembly with a plenitude of powers; 3) a provisional government rooted entirely in this assembly; 4) a constitution offered for national, popular referendum; 5) the dissolution of the constituent assembly upon the ratification of the constitution that establishes a duly

¹³⁸ Further traces of patrician republicanism can be found in Burke’s (1968: 129-139) very Aristotelian, indeed republican, concern that the representatives of the Third Estate, who dominated the National Assembly, lacked the experience, virtue and wisdom necessary to govern moderately. For a similar critique, see Du Voisin (1796: 77).

constituted government. The Métis effectively formed a National Committee, threw up a barricade, marched on Upper Fort Garry, proclaimed the Provisional Government and declared the HBC government dissolved, ran up a flag, called two constituent assemblies out of which were formed two provisional governments and ratified the terms they had obtained that were embodied in the *Manitoba Act, 1870*. For Pocock (2003: 564), it is precisely this “paradox of the presence of values so radically ancient at the heart of modernity [that] is central to what is meant by ‘the Machiavellian moment’.”

In this regard, Flanagan (1978: 164) was not far off the mark when he stated that “[c]ircumstances may have made Riel a rebel, but his true colour was blue, not red.” To be sure, the Usonian Revolution was in fact “a conservative movement wrought by practitioners of the common law and devoted to preserving it, and the ancient liberties embedded in it, intact” (Bailyn, 1992: xi). In both cases, however, if republicanism necessarily has a certain conservative element about it, it should not be confused with conservatism *tout court*. To be sure, Flanagan’s comments are aimed at what he sees as the Canadian left’s illegitimate political recuperation of Riel.¹³⁹ Flanagan (2000: 8) later deplored that “Riel has become a portemanteau symbol for the political left, including national liberation, Canadian nationalism, human rights, aboriginal rights, multiculturalism, and bilingualism.” If my thesis supports Flanagan’s contention that such claims are anachronistic insofar as Canadian nationalists who “now see Riel “as Canada’s own leader of national liberation” (Flanagan, 1983a: 11),¹⁴⁰ Canadian nationalists, such as historian Donald Creighton, are not necessarily on the political left. Nevertheless, it may be true that this recuperation of Riel on their part is due to “wider trends in public opinion” that followed World War II, when “those parts of the world which once belonged to European Empires [...] gained their political independence” (ibid.).

The same, however, can neither be said of Riel himself nor of the Métis Resistance in particular. As Harvey (2005: 10) notes, the “printemps des peuples” designates in a European context, “cette époque où les courants d’affirmation nationale et démocratique se sont conjugués dans une série de mouvements réformistes et révolutionnaires destinés à

¹³⁹ This is more explicitly pursued in Flanagan (1986).

¹⁴⁰ That Flanagan (ibid.) found this anachronistic is evident in his comment that “[n]one of this, however, has much to do with history.” It is also made clear when Flanagan referred to Donald Swainson (1980: 295), who wrote that “writers find in Riel a tool with which to cultivate retroactively their views of Canadian society” (qtd. in Flanagan, 2000: 8).

défaire les régimes monarchiques instaurés par le Congrès de Vienne.” But even more importantly, “l’Amérique a aussi eu son printemps des peuples, saison, il faut le reconnaître, plus longue que sa contrepartie européenne.” National liberation in the Americas began shortly after the end of the Seven Years’ War, beginning with the United States (1776-1783), then pouring over into Central and South America so that, by 1822, “la vaste empire colonial de l’Espagne était réduit à quelques îles antillaises” (Harvey, 2005:12). If Riel should not be retroactively portrayed as a leader of *Canadian* national liberation, he was a leader of Métis national liberation. Surely the Métis Resistance belongs to the ‘printemps des peuples’ of the Americas, and surely Riel belongs among those national liberation leaders who expressed their struggle in a distinctly republican idiom. It is not without reason that a few months before he was to be hanged by the neck until dead for his role in the Rebellion of 1885, Riel (1985b: 530) stated in his address to the jury on 31 July 1885: “I know that through the grace of God I am the founder of Manitoba.”

In addition, like their Hispanic counterparts, the influence of Usonian political thought on the political discourse of the Métis, whether through direct contact with Usonians or indirectly through the political discourse of the Lower Canadian *Patriotes*, is evident. It places the Métis Resistance squarely within the context of the Americas and illustrates the acceptance on their part of their *Americanité*. It stands in sharp contrast with Canadian political thought, which is marked by the persistent refusal of its *Americanité*. Almost immediately after Riel’s death on 16 November 1885, Brazilian poet Mathias Carvalho wrote a homage to Riel in 1886, comparing him to the executed national liberator Joaquim José da Silva Xavier (‘Triadentes’) “le souverainiste du Minas Gerais brésilien” (Morisset, 1997: 11). One certainly cannot accuse Carvalho of finding ‘in Riel a tool with which to cultivate retroactively’ a leftist or nationalist view of Canadian society.

There is unfortunately nothing new about double standards in Canadian history when it comes to the Métis. In November 1872, almost exactly two years after the end of the Métis Resistance, Oliver Mowat, who became premier of Ontario that year, reminded a Convention of the Reform Party of the “oppressive oligarchy [of the] Family Compact, and its minions” (Romney, 1999: 23). Ironically, Mowat recalled it as “a time when the people’s representatives had had no control over the public administration and expenditure. This was a state of things to which no people could tamely submit and at the same time be free, and it

might be said that it would have justified the rebellion of any people” (ibid.). Yet, it was the government of this very same province that went so far as to put a price on Riel’s head as a result of his role in the Resistance and fought to destroy his work. If the Resistance ultimately failed to secure a homeland for the Métis, it was, as Arendt (2006: xix) said of the Hungarian revolution, a “true event whose stature will not depend upon victory or defeat; its greatness is secure in the tragedy it enacted.”

Appendix

Appendix I. Statutes

British North America Act, 1867

XI. ADMISSION OF OTHER COLONIES

146. It shall be lawful for the Queen, by and with the Advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of the Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such Terms and Conditions in each Case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the Provisions of this Act; and the Provisions of any Order in Council in that Behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

147. In case of the Admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a Representation in the Senate of Canada of Four Newfoundland Members, and (notwithstanding anything in this Act) in case of the Admission of Newfoundland the normal Number Of Senators shall be Seventy-six and their maximum Number shall be Eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the Third of Three Divisions into which Canada is, in relation to the Constitution of the Senate, divided by this Act, and accordingly, after the Admission of Prince Edward Island, whether Newfoundland is admitted or not, the Representation of Nova Scotia and New Brunswick in the Senate shall, as Vacancies occur, be reduced from Twelve to Ten Members respectively, and the Representation of each of those Provinces shall not be increased at any Time beyond Ten, except under the Provisions of this Act for the Appointment of Three or Six additional Senators under the Direction of the Queen.

Act for the temporary Government of Rupert's Land

An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada. 32-33 Victoria, c. 3 (Canada)

[Assented to 22nd June, 1869]

Whereas it is probable that Her Majesty the Queen may, pursuant to the "Constitution Act, 1867," be pleased to admit Rupert's Land and the North-Western Territory into the Union or Dominion of Canada, before the next Session of the Canadian Parliament: And whereas it is expedient to prepare for the transfer of the said Territories from the Local Authorities to the Government of Canada, at the time appointed by the Queen for such admission, and to make some temporary provision for the Civil Government of such Territories until more permanent arrangements can be made by the Government

and Legislature of Canada; Therefore, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. The said Territories when admitted as aforesaid, shall be styled and known as "The North-West Territories."
2. It shall be lawful for the Governor, by any Order or Orders, to be by him from time to time made, with the advice of the Privy Council, (and subject to such conditions and restrictions as to him shall seem meet) to authorize and empower such Officer as he may from time to time appoint as Lieutenant-Governor of the North-West Territories, to make provision for the administration of Justice therein, and generally to make, ordain, and establish all such Laws, Institutions and Ordinances as may be Necessary for the Peace, Order and good Government of Her Majesty's subjects and others herein; provided that all such Orders in Council, and all Laws and Ordinances, so to be made aforesaid, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.
3. The Lieutenant-Governor shall administer the Government under instructions from time to time given him by Order in Council.
4. The Governor may, with the advice of the Privy Council, constitute and appoint, by Warrant under his Sign Manual, a Council of not exceeding fifteen nor less than seven persons, to aid the Lieutenant-Governor in the administration of affairs, with such powers as may be from time to time conferred upon them by Order in Council.
5. All the Laws in force in Rupert's Land and the North-Western Territory, at the time of their admission into the Union, shall so far as they are consistent with the "Constitution Act, 1867,"--with the terms and conditions of such admission approved of by the Queen under the 146th section thereof,--and with this Act, --remain in force until altered by the Parliament of Canada, or by the Lieutenant-Governor under the authority of this Act.
6. All Public Officers and Functionaries holding office in Rupert's Land and the NorthWestern Territory, at the time of their admission into the Union, excepting the Public Officer or Functionary at the head of the administration of affairs, shall continue to be Public Officers and Functionaries of the North-West Territories with the same duties and powers as before until otherwise ordered by the Lieutenant-Governor, under the authority of this Act.
7. This Act shall continue in force until the end of the next Session of Parliament.

Manitoba Act, 1870

17. Every male person shall be entitled to vote for a Member to serve in the Legislative Assembly for any Electoral Division, who is qualified as follows, that is to say, if he is:--

1. Of the full age of twenty-one years, and not subject to any legal incapacity:
2. A subject of Her Majesty by birth or naturalization:
3. And a *bona fide* householder within the Electoral Division, at the date of the Writ of Election for the same, and has been a *bona fide* householder for one year next before the said date; or,

4. If, being of the full age of twenty-one years, and not subject to any legal incapacity, and a subject of Her Majesty by birth or naturalization, he was, at any time within twelve months prior to the passing of this Act, and (though in the interim temporarily absent) is at the time of such election a *bona fide* householder, and was resident within the Electoral Division at the date of the Writ of Election for the same:

30. All ungranted or waste lands in the Province shall be, from and after the date of the said transfer, vested in the Crown, and administered by the Government of Canada for the purposes of the Dominion, subject to, and except and so far as the same may be affected by, the conditions and stipulations contained in the agreement for the surrender of Rupert's Land by the Hudson's Bay Company to Her Majesty.

31. And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise, as the Governor General in Council may from time to time determine.

32. For the quieting of titles, and assuring to the settlers in the Province the peaceable possession of the lands now held by them, it is enacted as follows:

(1) All grants of land in freehold made by the Hudson's Bay Company up to the eighth day of March, in the year 1869, shall, if required by the owner, be confirmed by grant from the Crown.

(2) All grants of estates less than freehold in land made by the Hudson's Bay Company up to the eighth day of March aforesaid, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

(3) All titles by occupancy with the sanction and under the license and authority of the Hudson's Bay Company up to the eighth day of March aforesaid, of land in that part of the Province in which the Indian Title has been extinguished, shall, if required by the owner, be converted into an estate in freehold by grant from the Crown.

(4) All persons in peaceable possession of tracts of land at the time of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of the same, on such terms and conditions as may be determined by the Governor in Council.

(5) The Lieutenant-Governor is hereby authorized, under regulations to be made from time to time by the Governor General in Council, to make all such provisions for ascertaining and adjusting, on fair and equitable terms, the rights of Common, and rights of cutting Hay held and enjoyed by the settlers in the Province, and for the commutation of the same by grants of land from the Crown.

33. The Governor General in Council shall from time to time settle and appoint the mode and form of Grants of Land from the Crown, and any Order in Council for that purpose when published in the *Canada Gazette*, shall have the same force and effect as if it were a portion of this Act.

Appendix II. Lists of Rights

First List of Rights

1. That the people have the right to elect their own Legislature.
2. That the Legislature have power to pass all laws, local to the Territory, over the veto of the Executive, by a two-third vote.
3. That no act of the Dominion Parliament local to this Territory to be binding on the people until sanctioned by their representatives.
4. That all sheriffs, magistrates, constables, etc., etc., to be elected by the people.
5. A free homestead pre-emption law.
6. That a portion of the public lands to be appropriated to the benefit of schools, - the building of roads, bridges and parish buildings.
7. That it be guaranteed to connect Winnipeg by rail with the nearest line of railroad within a term of five years; the land grant for such road or roads to be subject to the Legislature of the Territory.
8. That, for the term of four years the public expenses of the Territory, civil, military and municipal, to be paid out of the Dominion funds.
9. That the military to be composed of the people now existing in the Territory.
10. That the French and English language to be common in the Legislature and Council, and all public documents and acts of Legislature to be published in both languages.
11. That the Judge of the Superior speak French and English.
12. That treaties be concluded and ratified between the Government and several of Indians of this Territory, to insure peace on the frontier.
13. That we have a full and fair representation in the Canadian Parliament.
14. That all privileges, customs and usages existing at the time of the transfer be respected.

The original *List* also included:

13. That these rights be guaranteed by McDougall before he be admitted into Territory.
14. If he have not the power himself to grant them, he must get an act of Parliament passed expressly securing us these rights; and until such act be obtained, he must stay outside the Territory.

Second List of Rights

1. That in view of the present exceptional position of the Northwest, duties upon goods imported into the country shall continue as at present (except in the case of spirituous liquors) for three years, and for such further time as may elapse, until there be uninterrupted railroad communication between Red River settlement and St. Paul, and also steam communication between Red River settlement and Lake Superior.
2. As long as this country remains a territory in the Dominion of Canada, there shall be no direct taxation, except such as may be imposed by the local legislature, for municipal or other local purposes.

3. That during the time this country shall remain in the position of a territory, in the Dominion of Canada, all military, civil, and other public expenses, in connection with the general government of the country, or that have hitherto been borne by the public fund, of the settlement, beyond the receipt of the above mentioned duties, shall be met by the Dominion Of Canada.

4. That while the burden of public expense in this territory is borne by Canada, the country be governed by a Lieutenant-Governor from Canada, and a Legislature, three members of whom being heads of departments of the Government, shall be nominated by the Governor General of Canada.

5. That after the expiration of this exceptional period, the country shall be governed, as regards its local affairs, as the Provinces of Ontario and Quebec are now governed, by a Legislature [elected] by the people, and a Ministry responsible to it, under a Lieutenant-Governor, appointed by the Governor General of Canada.

6. That there shall be no interference by the Dominion Parliament in the local affairs of this territory, other than is allowed in the provinces, and that this territory shall have and enjoy in all respects, the same privileges, advantages and aids in meeting the public expenses of this, territory as the provinces have and enjoy.

7. That, while the Northwest remains a territory, the Legislature have a right to pass all laws local to the territory, over the veto of the Lieutenant-Governor by a two-third vote.

8. A homestead and pre-emption law.

9. That, while the Northwest remains a territory, the sum of \$25,000 a year be appropriated for schools, roads and bridges.

10. That all the public buildings be at the expense of the Dominion treasury.

11. That there shall be guaranteed uninterrupted steam communication to Lake Superior, within five years; and also the establishment, by rail, of a connection with the American railway as soon as it reaches the international line.

12. That the military force required in this country be composed of natives of the country during four years.

[Lost by a vote of 16 yeas to 28 nays, and consequently struck out of the list.]

13. That the English and French languages be common in the Legislature and Courts, and that all public documents and acts of the Legislature be published in both languages.

14. That the Judge of the Supreme Court speak the French and English languages.

15. That treaties be concluded between the Dominion and the several Indian tribes of the country as soon as possible.

16. That, until the population of the country entitles us to more, we have three representatives in the Canadian Parliament, one in the Senate, and two in the Legislative Assembly.

17. That all the properties, rights and privileges as hitherto enjoyed by us be respected, and that the recognition and arrangement of local customs, usages and privileges be made under the control of the Local Legislature.

18. That the Local Legislature of this territory have full control of all the lands inside a circumference having upper Fort Garry as a centre and that the radius of this circumference be the number of miles that the American line is distant from Fort Garry.

19. That every man in the country (except uncivilized and unsettled Indians) who has attained the age of 21 years, and every British subject, a stranger to this country who has resided three years in this country and is a householder, shall have a right to vote at the election of a member to serve in the Legislature of the country, and in the Dominion Parliament; and every foreign subject, other than a British subject, who has resided the same length of time in the country, and is a householder, shall have the same right to vote on condition of his taking the oath of allegiance, it being understood that this article be subject to amendment exclusively by the Local Legislature.

20. That the Northwest territory shall never be held liable for any portion of the 300,000 paid to the Hudson's Bay Company or for any portion of the public debt of Canada, as it stands at the time of our entering the confederation; and if, thereafter, we be called upon to assume our share of said public debt, we consent only, on condition that we first be allowed the amount for which we shall be held liable.

Third List of Rights

1. That the territories heretofore known as Rupert's Land and Northwest, shall not enter into the confederation of the Dominion, except as a province, to be styled and known as the Province of Assiniboia, and with all the rights and privileges common to the different Provinces of the Dominion.

2. That we have two representatives in the Senate and four in the House of Common of Canada, until such time as an increase of population entitles the Province to a greater representation.

3. That the Province of Assiniboia shall not be held liable at any time for any portion of the public debt of the Dominion contracted before the (late the said province shall have entered the confederation, unless the said province, shall have first received from the Dominion the full amount for which the said province is to be held liable.

4. That the sum of eighty thousand dollars be paid annually by the Dominion Government to the Local Legislature of the Province.

5. That all properties, rights and privileges enjoyed by the people of this Province up to the date of our entering into the confederation be respected, and that the arrangement and confirmation of all customs, usages and privileges be left exclusively to the Local Legislature.

6. That during the term of five years, the Province of Assiniboia shall not be subjected to any direct taxation, except such as may be imposed by the Local Legislature for municipal or local purposes.

7. That a sum of money equal to eighty cents per head of the population of this Province be paid annually by the Canadian Government to the Local Legislature of the said Province, until such time as the said population shall have increased to six hundred thousand.

8. That the Local Legislature shall have the right to determine the qualifications of members to represent this Province in the Parliament of Canada, and in the Local Legislature.

9. That in this Province, with the exception of uncivilized and unsettled Indians, every male native citizen who has attained the age of twenty-one years; and every foreigner, being a British subject, who has attained the same, and has resided three years in the Province, and is a householder; and every foreigner, other than a British subject, who has resided here during the same period, being a householder and having taken the oath of allegiance, shall be entitled to vote at the election of members for the Local Legislature and for the Canadian Parliament. It being understood that this article be subject to amendment exclusively by the Local Legislature.

10. That the bargain of the Hudson's Bay Company in the respect to the transfer of the government of this country to the Dominion of Canada be annulled so far as it interferes with the rights of the people of Assiniboia, and so far as it would affect our future relations with Canada.

11. That the Local Legislature of the Province of Assiniboia shall have full control over all the public lands of the Province, and the right to annul all acts or arrangements made or entered into with reference to the public lands of Rupert's Land and the Northwest, now called the Province of Assiniboia.

12. That the Government of Canada appoint a commissioner of engineers to explore the various districts of the Province of Assiniboia, and to lay before the Local Legislature a report of the mineral wealth of the province within five years from the date of our entering into confederation.

13. That treaties be concluded between Canada and the different Indian tribes of the Province of Assiniboia by and with the advice and co-operation of the Local Legislature of this Province.

14. That an uninterrupted steam communication from Lake Superior to Fort Garry be guaranteed to be completed within the space of five years.

15. That all public buildings, bridges, roads, and other public works be at the cost of the Dominion treasury.

16. That the English and French languages be common in the Legislature and in the Courts, and that all public documents, as well as all acts of the Legislature, be published in both languages.

17. That whereas the French and English speaking people of Assiniboia are so equally divided as to numbers, yet so united in their interests, and so connected by commerce, family connections, and other political and social relations, that it has happily been found impossible to bring them into hostile collision, although repeated attempts have been made by designing strangers, for reasons known to themselves, to bring about so ruinous and disastrous an event.

And whereas after all the trouble and apparent dissensions of the past, the result of misunderstanding among themselves, they have, as soon as the evil agencies referred to above were removed, become as united and friendly as ever; therefore as a means to strengthen this union and friendly feeling among all classes, we deem it expedient and advisable,

That the Lieutenant-Governor, who may be appointed for the Province of Assiniboia, should be familiar with both the English and French languages.

18. That the judge of the Superior Court speak the English and French Court languages.

19. That all debts contracted by the Provisional government of the territory of the Northwest, now called Assiniboia, in consequence of the illegal and inconsiderate measures adopted by Canadian officials to bring about a civil war in our midst, be paid out of the Dominion treasury, and that none of the members of the Provisional government, or any of those acting under them, be in any way held liable or responsible with regard to the movement or any of the actions which led to the present negotiations.

20. That in view of the present exceptional position of Assiniboia, duties upon goods imported into the Province shall, except in the case of spirituous liquors, continue as at present for at least three years from the date of our entering the confederation, and for such further time as may elapse until there be uninterrupted railroad communication between Winnipeg and St. Paul, and also steam communication between Winnipeg and Lake Superior.

Fourth List of Rights

1. That this province be governed:

1) By a Lieutenant-Governor, appointed by the Governor-General of Canada;

2) By a Senate;

3) By a Legislature chosen by the people with a responsible ministry.

2. That, until such time as the increase of the population in this country entitle us to a greater number, we have two representatives in the Senate and four in the Commons of Canada.

3. That in entering the Confederation the Province of the Northwest be completely free from the public debt of Canada; and if called upon to assume a part of the said debt of Canada, that it be only after having received from Canada the same amount for which the said Province of the Northwest should be held responsible.

4. That the annual sum of \$80,000 be allotted by the Dominion of Canada to the Legislature of the Province of the Northwest.

5. That all properties, rights and privileges enjoyed by us up to this day be respected, and that the recognition and settlement of customs, usages and privileges be left exclusively to the decision of the Local Legislature.

6. That this country be submitted to no direct taxation except such as may be imposed by the local legislature for municipal or other local purposes.

7. That the schools be separate, and that the public money for schools be distributed among the different religious denominations in proportion to their respective populations according to the system of the Province of Quebec.

8. That the determination of the qualifications of members for the parliament of the province or for the parliament of Canada be left to the local legislature.

9. That in this province, with the exception of the Indians, who are neither civilized nor settled, every man having attained the age of 21 years, and every foreigner being a British subject, after having resided three years in this country, and being Possessed of a house, be entitled to vote at the elections for the members of the local legislature and of the Canadian Parliament, and that every foreigner other than a British subject, having resided here during the same period, and being proprietor of a house, be likewise entitled to vote on condition of taking the oath of allegiance.

It is understood that this article is subject to amendment, by the local legislature exclusively.

10. That the bargain of the Hudson Bay Company with respect to the transfer of government of this country to the Dominion of Canada, never have in any case an effect prejudicial to the rights of Northwest.

11. That the Local Legislature of this Province have full control over all the lands of the Northwest.

12. That a commission of engineers appointed by Canada explore the various districts of the Northwest, and lay before the Local Legislature within the space of five years a report of the mineral wealth of the country.

13. That treaties be concluded between Canada and the different Indian tribes of the Northwest, at the request and with the co-operation of the Local Legislature.

14. That an uninterrupted steam communication from Lake Superior to Fort Garry be guaranteed to be completed within the space of five years, as well as the construction of a railroad connecting the American railway as soon as the latter reaches the international boundary.

15. That all public buildings and constructions be at the cost of the Canadian Exchequer.

16. That both the English and French languages be common in the Legislature and in the Courts; and that all public documents as well as the acts of the Legislature be published in both languages.

17. That the Lieutenant-Governor to be appointed for the province of the Northwest be familiar with both the English and French languages.

18. That the Judge of the Supreme Court speak the English and French languages.

19. That all debts contracted by the Provisional government of the territory of the Northwest, now called Assiniboia, in consequence of the illegal and inconsiderate measures adopted by Canadian officials to bring about a civil war in our midst, be paid out of the Dominion treasury, and that none of the Provisional government, or any of those acting under them, be in any way held liable or responsible with regard to the movement or any of the actions which led to the present negotiations.

Appendix III. Declarations of Provisional Government

Declaration of the People of Rupert's Land and the North-West

(8 December 1869)

"Whereas, it is admitted by all men as a fundamental principle that the public authority commands the obedience and respect of all its subjects, it is also admitted that the people to be governed have the right to adopt or reject forms of government, or refuse allegiance to that which is proposed, in accordance with the fundamental principle that the public authority commands the obedience and respect of all its subjects. It is also admitted that the people to be governed have the right to adopt or reject forms of government or refuse allegiance to that which is proposed in accordance with fundamental principles.

The people of this country had obeyed and respected that authority to which the circumstances surrounding its infancy compelled it to be subject. A company of adventurers, known as the H. B Co. and invested with certain powers granted by His Majesty Charles II, established itself in Rupert's Land and in the North West Territory for trading purposes only. This company consisted of many persons possessing a certain constitution, but as there was a question of commerce only the constitution was formed in reference thereto; yet, since there was at the time no government to see to the interests of a people already existing in the country, it became necessary for judicial officers to have recourse to the Hudson Bay Company. They inaugurated that species of government which, slightly modified by subsequent circumstances, ruled this country up to a recent date.

Whereas the government thus constituted was far from answering the wants of the people, and became more and more so as the population increased in numbers, and as the country was developed, and its commerce extended until the present day, when it commands a place among the countries, this people, ever actuated by the above mentioned principles had generously supported the aforesaid government, and gave to it a faithful allegiance, when, contrary to the law of nations in March, 1869, that said government surrendered and transferred to Canada all the rights which it had a pretended right to have in this territory by transactions with which the people were considered unworthy to be acquainted; and whereas it is also generally admitted that a people is at liberty to establish any form of government it may consider suitable to its wants, as soon as the power to which it was subject abandons it or subjugates it without its consent to a foreign power, and it is maintained that no right can be transferred to such foreign power;-Now, therefore,

First - We, the representatives of the people in council assembled in Upper Fort Garry, the 24th day of November, 1869, also having invoked the God of nations, relying on these fundamental moral principles, solemnly declare in the law of our constitution, and in our own names before God and man, that from the day on which the government we had always represented abandoned us by transferring to a strange power the sacred authority confided to it the people of Rupert's Land and the North West became free and exempt from all allegiance to the government.

Second - That we refuse to recognize the authority of Canada, which pretends to have a right to

govern and impose upon us a despotic form of government still more contrary to our right and interests as British subjects, than was that government to which we had subjected ourselves through necessity up to a recent date.

Third - That by sending an expedition on the first of November ult., in charge of Mr. William McDougall and his companions, coming in the name of Canada to rule us with the rod of despotism without previous notification to that effect, we have but acted conformably to that sacred right which commands every citizen to offer energetic opposition to prevent his country being enslaved.

Fourth - That we continue, and shall continue, to oppose with all our strength the establishing of the Canadian authority in our country under the announced form, and in case of persistence on the part of the Canadian Government to enforce its obnoxious policy upon us by force of arms, we protest beforehand against such an unjust and unlawful course, and we declare the said Canadian Government responsible before God and man for the innumerable evils which may be caused by so unwarrantable a course.

Be it known, therefore, to the world in general and to the Canadian Government in particular, that as we have always heretofore successfully defended our country in frequent wars with the neighboring tribes of Indians who are now on friendly terms with us, we are firmly resolved in future, not less than the past, to repel all invasions from whatsoever quarter they may come; and furthermore, we do declare and proclaim in the name of the people of Rupert's land and the North West that we have on the said 24th day of November, 1869, above mentioned, established a Provisional Government, and hold it to be the only and lawful authority now in existence in Rupert's Land and the North West which claims the obedience and respect of the people; that meanwhile, we hold ourselves in readiness to enter into such negotiations with the Canadian Government as may be favorable for the good government and prosperity of this people.

In support of this declaration, relying on the protection of Divine Providence, we mutually pledge ourselves on oath, our lives, our fortunes, and our sacred honour to each other.

Circular to the Inhabitants of the North and the North-West

Government House, Fort Garry, 7 April 1870

To the Inhabitants of the North and of the North-West,

FELLOW COUNTRYMEN! –

You are aware, doubtless, both of the series of events which have taken place in Red River and become accomplished facts, and of the causes which have brought them about.

You know how we stopped and conducted back to the frontier, a Governor, whom Canada – an English Colony like ourselves – ignoring our aspirations and our existence as a people, forgetting the rights of nations and our rights as British subjects, - sought to impose upon us, without consulting or even notifying us.

You know also that, having being abandoned by our own Government, which had sold its title to this country, we saw the necessity of meeting in Council and recognising the authority of a Provisional Government, which was proclaimed on the 8th December 1869.

After many difficulties raised against it by the partisans of Canada and the Hudson's Bay Company, this Provisional Government is to-day master of the situation, - because the whole people

of the Colony have felt the necessity of union and concord, - because we have always professed our nationality as British subjects, and because our army, though small, has always sufficed to hold high the noble standards of liberty and country.

Not only has the Provisional Government succeeded in restoring order and pacifying the country, but it has inaugurated very advantageous negotiations with the Canadian Government and with the Hudson's Bay Company. You will be duly informed of the results of these negotiations.

People of the North and of the North-West! You have not been strangers either to the cause for which we have fought or to our affections. Distance, not indifference, has separated us.

Your brethren at Red River, in working out the mission which God assigned them, feel that they are not acting for themselves alone, and that if their position has given them the glory of triumphing, the victory will be valued only in so far as you share their joy and their liberty. The winning of their rights will possess value in their eyes only if you claim those rights with them.

We possess to-day, without partition, almost the half of a continent. The expulsion or annihilation of the invaders has rendered our land natal to its children. Scattered throughout this vast and rich country but united to a man, - what matters distance to us, since we are all brethren and are acting for the common good!

Recognised by all classes of the people, the Government reposes upon the good will and union of the inhabitants.

Its duty, in officially informing you of the political changes effected among us, is to reassure you for the future. Its hope is that the people of the North will show themselves worthy of their brethren in Red River.

Still the Government fears that, from a misapprehension of its views, the people of the North and of the North-West, influenced by evil intentioned strangers, may commit excesses fitted to compromise the public safety. Hence it is that the President of the Provisional Government deems it his duty to urge upon all those who desire the public good and the prosperity of their country, to make the fact known and understood by all those Half-breeds or Indians who might wish to take advantage of this so-called time of disorder, to foment trouble, that the true state of public affairs is order and peace.

The Government established on justice and reason, will never permit disorder, and those who are guilty of it shall not go unpunished. It must not be that a few mischievous individuals should compromise the interests of the whole people.

People of the North and of the North-West! This message is a message of peace. War has long enough threatened the Country. Long enough have we been in arms to protect the country and restore order, disturbed by evil-doers and scoundrels.

Our country, so happily surrounded by Providence with natural and almost insuperable barriers, invites us to unite.

After the crisis through which we have passed, all feel more than ever they seek the same interests, - that they aspire to the same rights, - that they are members of the same family.

We hope that you also will see the need of rallying round the Provisional Government to support and sustain its work.

By order of the President
Louis Schmidt
Assistant Secretary of State

Proclamation to the People of the North-West

Let the Assembly of twenty-eight Representatives which met on the 9th March be dear to the people of Red River! That Assembly has shown itself worthy of great confidence. It has worked in

union. The members devoted themselves to the public interests and yielded only to sentiments of good will, duty and generosity. Thanks to that noble conduct, public authority is now strong. That strength will be employed to sustain and protect the people of the country.

Today, the Government pardons all those whom political differences led astray only for a time. Amnesty will be generously accorded to all those who will submit to the Government, who will discountenance or inform against dangerous gatherings.

From this day forth, the public highways are open.

The Hudson's Bay Company can now resume business. Themselves contributing to the public good, they circulate their money as of old. They pledge themselves to that course.

The attention of the Government is also directed very specially to the Northern part of the country, in order that trade there may not receive any serious check and peace in the Indian districts may thereby be all the more securely maintained.

The disastrous war, which at one time threatened us, has left among us fears and various deplorable results. But let the people feel reassured.

Elevated by the Grace of Providence and the suffrages of my fellow citizens to the highest position in the Government of my country, I proclaim that peace reigns in our midst this day. The Government will take every precaution to prevent this peace from being disturbed.

While internally all is thus returning to order, externally also matters are looking favourable. Canada invites the Red River people to an amicable arrangement. She offers to guarantee us our rights and to give us a place in the Confederation equal to that of any other Province.

Identified with the Provisional Government, our national will based upon justice shall be respected.

Happy country to have escaped many misfortunes that were prepared for her! In seeing her children on the point of war, she recollects the old friendship which used to bind us and by the ties of the same patriotism she has reunited them again for the sake of preserving their lives, their liberties and their happiness.

Let us remain united and we shall be happy. With strength of unity we shall retain prosperity.

O my fellow countrymen without distinction of language or without distinction of creed, keep my words in your hearts! If ever the time should unhappily come when another division should take place amongst us, such as foreigners heretofore sought to create, that will be the signal for all the disasters which we have had the happiness to avoid.

In order to prevent similar calamities, the Government will treat with all the severity of the law those who will dare again to compromise the public security. It is ready to act against the disorder of parties as well as against that of individuals. But let us hope rather that extreme measures will be unknown and that the lessons of the past will guide us in the future.

[signed] Louis Riel
Government House Fort Garry
9 April 1870

Protest of the Peoples of the North-West

The present state of excitement against us in certain parts of Canada [of certain Canadian parties against us] gives us a fitting occasion to demonstrate the difference between their principles and ours. Is it true that so many Canadian newspapers and so many people who approve them exercise themselves against us simply and sincerely in the interest of the Confederation? Is it in the interest of England? If it is so, how is it that Snow, Dennis, McDougall, and so many other recipients of sympathy principally in Upper Canada, should have chosen ways so tortuous, and should have sought so deviously to deceive the people to throw them into an agitation as great as it is general? The men of Upper Canada, with whom we have avoided all sorts of frays during the last six months,

have sought to divide us, to arouse us one against the other, to bring us to the horrible collision of a civil war! Has not civil war been proclaimed in our midst? And those who have dared to do so, have they not usurped, in an infamous manner, the name of Her Majesty? As many outsiders as we have been constrained, at different times, to make prisoners, have they not been generously set at liberty again, when we knew that they would hasten to do against us the evil that they are raising to-day in Upper Canada, perjuring themselves the while? And because one of those who through obstinacy continued to trouble the public peace, which they alone had put in jeopardy amongst us, and which made so many efforts to keep in the North-West, has forced us to make an example of him by which others might learn, they wish to declare war on us, while Sir John A. Macdonald, the Prime Minister, is compelled in justice to say that Canada has no jurisdiction in the country. No, those people have not worked and are not working in the interest of England! They concern themselves with the Confederation only so far as they believe it necessary to the success of their plans, of which the aims are too personal and too exclusive to be just! These persons through a great lack of honesty and loyalty have thought to impose on us a supremacy altogether to be condemned, to achieve which these false British subjects have not wanted and do not wish to respect the rights of anyone in a British colony. They flattered themselves with the shameful hope of being able to combine their selfish projects with those of Imperial policy in British North America. There is one thing they have forgotten: the policy of a government having to concern itself with the general interests of society, without distinction of language, of origin, without distinction of religious belief, is always incompatible with the restricted views of individual interest, when the latter, in place of imposing itself on the former, is not entirely subordinate to it. They should have known it: the sole means of assuring the existence and extension of the Confederation is to place on the same equal and generous footing all the provinces of British North America. If it is true that the Hudson's Bay Company has neglected the political advancement of their country, the people themselves, as soon as they could, have had to act. They have formed a government, and this government which calls itself provisional does not wish that the North-West enter into Confederation until in this country all claims of civilized men shall have received a guarantee of being on the same noble footing of equality.

In the month of October last, when the first representatives of the people of Red River had first publicly assembled to take, in the name of their constituents, the title and function of 'Protectors of the rights of the people', they declared:

1. That they were loyal subjects of Her Majesty the Queen of England.
2. That they were beholden to the Hudson's Bay Company for the well-being they had enjoyed under its government, whatever the nature of that government.
3. That the Hudson's Bay Company being about to lay down the government of the country they were read to accept the change involved. But at the same time, being settlers, having lived on the lands which they had assisted the Hudson's Bay Company to open up, the people of Red River, having acquired in that fashion indisputable rights in the country, proudly asserted those rights.
4. That the people of Red River having up to this time, upheld and supported the government of the Hudson's Bay Company, under the Crown of England, Snow and Dennis have disregarded the law of nations in coming to carry out here public works in the name of an alien authority without paying the respect owing to the authority then existing in the country.
5. The Colony of Red River having always been subject of the Crown of England, having been developed in isolation, through all the hazards of its situation, these representatives declared in the name of their constituents that they would do all in their power to have respected, on their behalf, all the privileges so liberally granted by the Crown of England to any English colony whatever.

These principles have been published in Canada in the month of November last. They are still, as they were then, the line of conduct of the Provisional Government. The English flag that floats over our heads displays fully to the eyes of the world its grand testimony in our favour. Filled with confidence in these principles which are our strength, we do not consider that they are loyal subjects

of Her Majesty the Queen of England who have wished to make war on us up to now, and who would wish still to wage it on us, because of the way we have conducted ourselves under these resolutions. In order to ruin us, and raise themselves on our ruins, they have always held us to be barbarians. However, the magnitude of our great difficulties has never led us to call to our aid the dangerous element of the wild Indian tribes. On the contrary, while we have spared ourselves no effort to keep them quiet, these others have just sent across our country where their government has no jurisdiction, some agents for the criminal purpose of creating enemies for us among the Indians. But we hope that Providence will aid us to complete the pacification of the North-West; we hope that the authority of the Crown of England will assist the solution of the great complications which have been caused by a major political impudence.

Our cause is that of a British colony! Our cause is that of liberty! God and the world know how we have been outraged.

People whom progress and civilization fill with ambition border us on one side and on the other numerous wild tribes who live on the alert and in apprehension. The people of Red River is sprung from these two great divisions in order to serve both as an intermediary. In effect, we are bound to both by blood and by custom.

The Province of Ontario in arresting our delegates that the Federal Government had invited by three special commissions has just committed an act against [us] which we protest in the name of all the peoples of the North-West. We denounce the opprobriousness of such a proceeding to all civilized people; we appeal to the law of nations which Upper Canada has always disregarded where we are concerned, which the Federal Government has not done itself the honour to uphold, but which we claim before God and before men in every way open to us and in every way which shall be open to us.

Louis Riel, President
Seat of the Provisional Government
Fort Garry, 14 May 1870¹⁴¹

¹⁴¹ According to Morton (1969: 524, note 1), this proclamation was printed but never published in the Settlement, but was copied in Canadian newspapers. Whether it was known in the colony or not, it nevertheless provides insight into the linguistic conventions that Riel was manipulating.

Works Cited

- Ajzenstat, Janet. 1997. "The Constitutionalism of Étienne Parent and Joseph Howe." In *Canada's origins: Liberal, Tory, or Republican?*, ed. Janet Ajzenstat and Peter J. Smith. Montréal/Kingston: McGill-Queen's University Press.
- Ajzenstat, Janet. 2007. *The Canadian Founding. John Locke and Parliament*. Montréal/Kingston: McGill/Queen's University Press.
- Ajzenstat, Janet, and Peter J. Smith. ed. 1997. *Canada's origins: Liberal, Tory, or Republican?* Montréal/Kingston: McGill-Queen's University Press.
- Ajzenstat, Janet, Paul Romney, and Ian Gentles ed. 2003. *Canada's Founding Debates*. Toronto: University of Toronto Press.
- Angus, Ian. 2005. "Louis Riel and English Canadian Political Thought." *University of Toronto Quarterly* 74, 4: 884-894.
- Arendt, Hannah. 2006. *On Revolution*. New York: Penguin Books.
- Arendt, Hannah. 2000. *The Portable Hannah Arendt*. New York: Penguin Books.
- Aristotle. 1952. *Athenian Constitution. Eudemian Ethics. Virtues and Vices*. Cambridge (Mass.): Harvard University Press.
- Aristotle. 1934. *Nicomachean Ethics*. Cambridge (Mass.): Harvard University Press.
- Aristotle. 1932. *Politics*. Cambridge (Mass.): Harvard University Press.
- Audier, Serge. 2004. *Les théories de la république*. Paris: Éditions La découverte.
- Aylmer, John. 1985. *Dangerous Positions; Mixed Government, the Estates of the Realm, and the Making of the 'Answer to the six propositions'*, ed. Michael Mendle. Tuscaloosa: University of Alabama Press.
- Banning, Lance. 1974. "Republican Ideology and the Triumph of the Constitution." *William and Mary Quarterly*. 31, 2: pages168-188.
- Baron, Hans. 1955. *The Crisis of the Early Italian Renaissance: Civic Humanism and Republican Liberty in an Age of Classicism and Tyranny*. Princeton University Press.
- Begg, Alexander. 1871. *The Creation of Manitoba*. Toronto: Hunter, Rose & Co.
- Benjamin, Walter. 1965. *Zur Kritik der Gewalt und andere Aufsätze*, ed. Herbert Marcuse. Frankfurt am Main: Edition Suhrkamp.

- Berlin, Isaiah. 1998. "Two Conceptions of Liberty." In *The Proper Study of Mankind: An Anthology of Essays*, ed. Henry Hardy. New York: Farrar, Strauss and Giroux.
- Biagini, Eugenio F. 2003. "Neo-Roman Liberalism: 'Republican Values and British Liberalism, ca. 1860-1875.'" *History of European Ideas*. 29: 55-72.
- Biagini, Eugenio F. 1996a. "Introduction: Citizenship, Liberty and Community." In *Citizenship and Community. Liberals, Radicals and Collective Identities in the British Isles, 1865-1931*, ed. Eugenio F. Biagini. Cambridge: Cambridge University Press.
- Biagini, Eugenio F. 1996b. "Liberalism and Direct Democracy: John Stuart Mill and the Model of Ancient Athens." In *Citizenship and Community. Liberals, Radicals and Collective Identities in the British Isles, 1865-1931*, ed. Eugenio F. Biagini. Cambridge: Cambridge University Press.
- Biagini, Eugenio F. 1992. *Liberty, Retrenchment and Reform. Popular Liberalism in the Age of Gladstone, 1860-1870*. Cambridge: Cambridge University Press.
- Blythe, James. 1992. *Ideal Government and the Mixed Constitution in the Middle Ages*. Princeton: Princeton University Press.
- Boreskie, Thomas G. 2000. "Corbett, Griffith Owen." In *Dictionary of Canadian Biography*, vol. 13, ed. John English and Réal Bélanger. Toronto/Québec: University of Toronto Press/Presses de l'Université Laval.
www.biographi.ca/009004-119.01-e.php?BioId=40766
- Bouchard, Gérard. 2001. *Genèse des nations et cultures du Nouveau Monde*. Montréal: Les éditions du Boréal.
- Boudon, Raymond. 1991. *La place du désordre*. Paris : PUF.
- Boudon, Raymond. 1976. « Les statistiques peuvent-elles donner une image réelle de la réalité sociale? » *Sociologie et sociétés* 8, 2 : 141-156
- Bowsfield, Hartwell. ed. 1968. *The James Wickes Taylor Correspondence, 1859-1870*. Winnipeg: Manitoba Record Society Publications.
- Bowsfield, Hartwell. 2000. "Enos Stutsman." In *Dictionnaire of Canadian Biography Online*. University of Toronto/Université Laval. Consulted 2 May 2010.
<http://www.biographi.ca/009004-119.01-e.php?BioId=39404>
- Brown, Jennifer. 1980. *Strangers in Blood. Fur Trade Families in Indian Country*. Vancouver: UBC Press.
- Bryce, George. 1890. "Two Provisional Governments in Manitoba." *Transactions of the Historical and Scientific Society of Manitoba* 1, 38: 1-11.

- Bumsted, J.M., ed. 2003a. *Reporting the Resistance. Alexander Begg and Joseph Hargrave on the Red River Resistance*. Winnipeg: University of Manitoba Press.
- Bumsted, J.M. 2003b. *Trials and Tribulations. The Red River Settlement and the Emergence of Manitoba, 1811-1870*. Winnipeg: Great Plains Publications.
- Bumsted, J.M. 2001. *Louis Riel v. Canada. The Making of a Rebel*. Winnipeg. Great Plains Publications.
- Bumsted, J.M. 2000. *Thomas Scott's Body and Other Essays on Early Manitoba History*. Winnipeg: University of Manitoba Press.
- Bumsted, J.M. 1996. *The Red River Rebellion*. Winnipeg: Watson and Dwyer Publishing Ltd.
- Burchell, David. 2002. "Ancient Citizenship and its Inheritors." In *Handbook of Citizenship Studies*, ed. Engin F. Isin and Bryan S. Turner. London: Sage Publications Ltd.: 89-104.
- Canada. 1874. "Report of the Select Committee of the House of Commons on the Causes and Difficulties in the North-West Territories in 1869-1870." *House of Commons Papers*, 37 Vic., Vol. VIII, App. 6, Ottawa: I.B. Taylor.
- Canada. 1871. "Réponse: Instructions données à l'Honorable A. Archibald." *Documents de la session*, 34 Vict., No. 20, Ottawa: I.B. Taylor.
- Canada. 1870a. "Correspondence and Papers Connected with Recent Occurrences in the North-West Territories." *Sessional Papers*, 33 Vic., Vol. V, No. 12, Ottawa: I.B. Taylor.
- Canada. 1870b. *House of Commons Debates*. 3rd Session, 1st Parliament.
- Canada, 1857. "Memorandum of the Honorable Joseph Cauchon, Commissioner for Crown Lands, Canada." *Journals of the Legislative Assembly*. Vol. XV, Appendix 17.
- Canny, Nicholas. 2001. *Making Ireland British, 1580-1650*. Oxford: Oxford University Press.
- Careless, James M.S. 1948. "The Toronto *Globe* and Agrarian Radicalism, 1850-1867." *Canadian Historical Review* 29, 1: 14-39.
- Chinard, Gilbert. 1940. "Polybius and the American Constitution." *Journal of the History of Ideas*. 1: 38-58.
- Cicero, Marcus Tullius. 1928. *On the Republic. On the Laws*. Cambridge: Harvard University Press.

- Cicero, Marcus Tullius. 1913. *On Duties*. Cambridge: Harvard University Press.
- Condorcet, Jean-Antoine-Nicolas de Caritat, marquis de. 1970. *Esquisse d'un tableau historique des progrès de l'esprit humain*. Vrin: Paris.
- Constant, Benjamin. 1992. «De la liberté des Anciens comparée à celle des Modernes». dans Dominique Colas. *La pensée politique*. Paris: Larousse.
- Cowie, Isaac. 1993 [1913]. *The Company of Adventurers: A Narrative of Seven Years in the Service of the Hudson's Bay Company During 1867-1874*. Lincoln: University of Nebraska Press.
- Craig, G.M. 1948. "The American Impact on the Upper Canadian Reform Movement Before 1837." *Canadian Historical Review* 29, 4: 333-352.
- Daniels, Harry. 1981. *Native People and the Constitution of Canada*. Ottawa: Native Council of Canada.
- Denis, Claude. 1997. *We Are Not You*. Peterborough: Broadview Press.
- Détienne, Marcel et Jean-Pierre Vernant. 1974. *Les ruses de l'intelligence. La mètis des Grecs*. Paris: Flammarion.
- Devine, Heather. 2004. *The People that Own Themselves: Aboriginal Ethnogenesis in a Canadian Family, 1660-1900*. Calgary: University of Calgary Press.
- Dorge, Lionel. 1974a. "The Metis and Canadien Councillors of Assiniboia. Part I." *The Beaver* 305,1: 12-19.
- Dorge, Lionel. 1974b. "The Metis and Canadien Councillors of Assiniboia. Part II." *The Beaver* 305,2: 39-45.
- Dorge, Lionel. 1974c. "The Metis and Canadien Councillors of Assiniboia. Part III." *The Beaver* 305,3: 51-58.
- Dugas, Georges. 1906. *Histoire de l'Ouest canadien de 1822 à 1869, époque des troubles*. Montréal: Librairie Beauchemin.
- Dugas, Georges. 1905. *Histoire véridique des faits qui ont préparé le mouvement des Métis à la Rivière-Rouge en 1869*. Montréal: Librairie Beauchemin.
- Dugas, Georges. 1949. "Documents inédits: Lettre de l'abbé Georges Dugas au Père Joseph Grenier." *La Revue de l'Amérique française* 3, 1: 115-116.
- Durham, John George Lambton, Earl of. 2004. *Lord Durham's Report. An Abridgement*, ed. G.M. Craig. Montréal/Kingston: McGill-Queen's University Press.

Du Voisin, 1796. *Examination of the Principles of the French Revolution*. London: British Library.

Elias, Norbert. 1992. *Studien über die Deutschen. Machtkämpfe und Habitusentwicklung im 19. Und 20. Jahrhundert*. Frankfurt am Main: Suhrkamp.

Elliott, George and Edwin Brokovski. 1874. *Preliminary Investigation and Trial of Ambroise Lépine*. Montréal: Burland-Desbarats.

Ens, Gerhard J. 1996. *Homeland to Hinterland: The Changing World of the Red River Métis in the Nineteenth Century*. Toronto: University of Toronto Press.

Ens, Gerhard. 1994. "Prologue to the Red River Resistance: Pre-liminal Politics and the Triumph of Riel." *Journal of the Canadian Historical Association* 5: 111-123.

Ferland, Marcien, ed. 2000. *Au temps de la prairie. L'histoire des Métis de l'Ouest canadien racontée par Auguste Vermette, neveu de Louis Riel*. Saint-Boniface: Éditions du Blé.

Fink, Zera. 1945. *The Classical Republicans: an Essay in the Recovery of Patterns of Thought in Seventeenth-Century England*. Evanston: Northwestern University Press.

Flanagan, Thomas. 2001. "From Riel to Reform (And a Little Beyond): Politics in Western Canada." *American Review of Canadian Studies* 31, 4: 623-638.

Flanagan, Thomas. 1991a. *Métis Lands in Manitoba*. Calgary: University of Calgary.

Flanagan, Thomas. 1991b. "Métis Land Claims in Manitoba." In *The Cultural Maze. Complex Questions on Native Destiny in Western Canada*, ed. John W. Friesen. Calgary: Detselig Enterprises: 111-133.

Flanagan, Thomas. 1986. "Louis Riel: Icon of the Left." *Transactions of the Royal Society of Canada*, 1: 219-228.

Flanagan, Thomas. 1983a. *Riel and the Rebellion: 1885 Reconsidered*. Saskatoon: Western Producer Prairie Books.

Flanagan, Thomas. 1983b. "The Case Against Métis Aboriginal Rights". *Canadian Public Policy* 9, 3: 314-325.

Flanagan, Thomas. 1979. "The Political Thought of Louis Riel." In *Riel and the Métis*, ed. Antoine S. Lussier. Winnipeg, Manitoba Métis Federation Press: 131-160.

Flanagan, Thomas. 1978. "Political Theory of the Red River Resistance: The Declaration of December 8, 1869," *Canadian Journal of Political Science* 9, 1: 153-164.

- Foster, John. 2001. "Wintering, the Outsider Male and the Ethnogenesis of the Western Plains Métis." in *From Rupert's Land to Canada*. ed. Theodore Binnema, Gerhard Ens and R.C. Macleod. Edmonton: University of Alberta Press.
- Foster, John. 2007 [1978]. "The Métis: the People and the Term." in Patrick C. Douaud (ed.). *The Western Métis: Profile of a People*. Regina: Canadian Plains Research Centre.
- Foster, John. 1985. "Some Questions and Perspectives on the Problem of Métis Roots." In Ed. Jacqueline Peterson and Jennifer Brown. *The New Peoples: Being and Becoming Métis in North America*. Winnipeg: University of Manitoba Press.
- Foster, John. 1973. *The Country Born and the Red River Settlement, 1820-1850*. Unpublished Ph.D. thesis, University of Alberta.
- Foster, Martha Harroun. 2006. *We Know Who We Are. Métis Identity in a Montana Community*. Norman: University of Oklahoma Press.
- Gerber, Douglas E. 1999. *Greek Elegiac Poetry from the Seventh Century to the Fifth Centuries BC*. Cambridge: Cambridge University Press.
- Gibson, Dale. 1995. "Company Justice: Origins of Legal Institutions in Pre-Confederation Manitoba." *Manitoba Law Journal*. 23: 247-292.
- Gibson, Dale and Lee. 1972. *Substantial Justice. Law and Lawyers in Manitoba, 1670-1970*. Winnipeg: Peguis Publishers.
- Gilman, Rhoda. 1999. "Territorial Imperative: How Minnesota Became the 32nd State." in Anne R. Kaplan and Marilyn Ziebarth (Ed.) *Making Minnesota Territory, 1849-1858*. St. Paul: Minnesota Historical Society Press.
- Giraud, Marcel. 1984 [1945]. *Le Métis canadien*. Saint-Boniface: Éditions du blé.
- Goossen, N. Jaye. 2000. "William Mactavish." In *Dictionnaire of Canadian Biography Online*. Univeristy of Toronto/Université Laval. Consulted 12 April 2010.
<http://www.biographi.ca/009004-119.01-e.php?BioId=38688>
- Greer, Allan. 1993. *The Patriots and the People. The Rebellion of 1837 in Rural Lower Canada*. Toronto: University of Toronto Press.
- Havard, Gilles et Cécile Vidal. 2003. *Histoire de l'Amérique française*. Paris: Flammarion.
- Havard, Valery. 1880. "The French Half-breeds of the Northwest". In *Annual Report of the Smithsonian Institution*. Washington: Government Printing Office: 309-327.
- Harvey, Louis-Georges. 2005. *Le printemps de l'Amérique française. Américanité, anticolonialisme et républicanisme dans le discours politique québécois, 1805-1837*. Montréal: Boréal.

Hobsbawm, Eric. 1965 [1959]. *Primitive Rebels. Studies in Archaic Forms of Social Movements in the 19th and 20th Centuries*. New York: W.W. Norton & Company.

Hogg, Peter W. 2002. *Constitutional Law in Canada*. Scarborough: Carswell.

Howard, Joseph Kinsey. 1989. *L'Empire des Bois-Brûlés*. Saint-Boniface : Éditions des plaines.

Isaac, Jeffrey C. 1988. "Republicanism vs. Liberalism? A Reconsideration." *History of Political Thought* 9, 2: 349-377.

Isbister, A.K. 1846. *A Few Words on the Hudson's Bay Company; with a Statement of the Grievances of the Native and Half-Caste Indians*. London: G. Gilpin.

Jetté, Melinda Marie. 2008. "Un îlot oublié de la diaspora canadienne-française: la vallée de la Willamette en Oregon." In *Franco-Amérique*, ed. Dean Louder and Éric Waddell. Sillery: Éditions du Septentrion.

Kalyvas, Andreas. 2008. *Democracy and the Politics of the Extraordinary. Max Weber, Carl Schmitt, and Hannah Arendt*. Cambridge: Cambridge University Press.

Kalyvas, Andreas and Ira Katznelson. 2008. *Liberal Beginnings. Making a Republic for the Moderns*. Cambridge: Cambridge University Press.

Kelly, Stéphane. 1997. *La petite lotterie. Comment la Couronne a obtenu la collaboration du Canada français après 1837*. Montréal: Boréal.

Kermoal, Nathalie. 2006. *Un passé métis au féminin*. Québec: Les éditions GID.

Kohn, Margaret. 2008. "Empire's Law: Alexis de Tocqueville on Colonialism and the State of Exception." *Canadian Journal of Political Science* 41, 2: 255-278.

Law, James D. 1903. *Here and There in Two Hemispheres*. Lancaster: Home Publishing Co.

Macdougall, Brenda. 2010. *One of the Family: Metis Culture in Nineteenth-Century Northwestern Saskatchewan*. Vancouver: UBC Press.

MacLeod, Margaret, and William Lewis Morton. 1974 [1963]. *Cuthbert Grant of Grantown*. Toronto, McClelland and Stewart Ltd.

Macpherson, C.B. 1973. "Berlin's Division of Liberty." in *Democratic Theory. Essays in Retrieval*. Oxford: Clarendon Press.

McArthur, Alex. 1882. "On the Causes of the Rising in the Red River Settlement." 1869-70. *Manitoba Historical Society Transactions*, 1, 1. Consulted 7 April 2010.

<http://www.mhs.mb.ca/docs/transactions/1/redriverrising.shtml>

McCormick, John P. 2003. "Machiavelli against Republicanism: On the Cambridge School's 'Guicciardinian Moments'." *Political Theory* 31, 5: 615-643.

McNab, David T. 1981. "Herman Merivale and Colonial Office Indian Policy in the Mid-Nineteenth Century." *Canadian Journal of Native Studies*. 1,2: 277-302.

McNeil, Kent. 1982. *Native Rights and the Boundaries of Rupert's Land and the North-Western Territory*. Saskatoon: Native Law Centre.

Machiavelli, Niccolo. 1997. *Discourses on Livy*. Oxford: Oxford University Press.

Machiavel, Nicholas. 1985. *Discours sur la première décade de Tite-Live*. Paris: Flammarion.

Machiavelli, Niccolo. 1975. *The Prince*. Woodbury, NY: Barron's Educational Series, Inc.

Mancke, Elizabeth. 1999. "Early Modern Imperial Governance and the Origins of Canadian Political Culture." *Canadian Journal of Political Science* 32, 1: 3-20.

Martel, Gilles. 1984. *Le méssianisme de Louis Riel*. Waterloo: Wilfrid Laurier University Press.

Michelman, F.I. 1986. "The Supreme Court 1985 Term; Forward; Traces of Self-Government." *Harvard Law Review* 100, 2: 4-77.

Montesquieu, Charles Louis de Secondat. 1979. *De l'esprit des lois*. Vol. I. Paris: Flammarion.

Moorwood, James and John Taylor. 2002. *Pocket Oxford Greek Classical Greek Dictionary*. Oxford: Oxford University Press.

Morice, Adrien G. 1935. *A Critical History of the Red River Insurrection. After Official Documents and Non-Catholic Sources*. Winnipeg: Canadian Publishers.

Morice, Adrien G. 1912. *Dictionnaire historique des Canadiens et des Métis français de l'Ouest*. Montréal: Chez Granger Frères.

Morice, Adrien G. 1910. *History of the Catholic Church in western Canada: from Lake Superior to the Pacific, 1659-1895*. Toronto: Musson Book Company.

Morisset, Jean. 1997. *Matias Carvalho, Louis Riel : Poèmes américains*. Trois-Pistoles : Éditions Trois-Pistoles.

- Morris, Alexander. 1991 [1880]. *The Treaties of Canada with the Indians of Manitoba and the North-West Territories, Including the Negotiations on Which They Were Based*. Calgary: Fifth House Ltd.
- Morton, Arthur S. 1973 [1939]. *A History of the Canadian West to 1870-1871*. Toronto: University of Toronto Press.
- Morton, Arthur S. 1978 [1939]. "The New Nation, The Métis". In *The Other Natives: The – Les Métis*, Vol. 1, 1700-1885. ed. Antoine S. Lussier and D. Bruce Sealey. Winnipeg: Manitoba Métis Federation Press and Éditions Bois-Brûlés: 27-37.
- Morton, William Lewis. 2000. "Louis Riel". In *Dictionnaire of Canadian Biography Online*. University of Toronto/Université Laval. Consulted 11 February 2008. www.biographi.ca/EN/ShowBio.asp?BioId=38794&query=Louis%20AND%20Riel
- Morton, Willaim Lewis. 1980. *Context of Canada's Past. Selected Essays of W.L. Morton*. ed. A.B. McKillop. Toronto: McMillan Company of Canada.
- Morton, Willaim Lewis. ed. 1969 [1956]. *Alexander Begg's Reg River Journal and Other Papers Relative to the Red River Resistance of 1869-1870*. New York: Greenwood Press & Publishers.
- Morton, William Lewis. 1967 [1957]. *Manitoba: A History*. Toronto: University of Toronto Press.
- Morton, Willaim Lewis. ed. 1965. *Manitoba: The Birth of a Province*. Winnipeg: Manitoba Record Society Publications.
- Nederman, Cary. 2004. Rhetoric, Reason and Republic: Republicanisms – Ancient, Medieval and Modern." in James Hankins. ed. *Renaissance Civic Humanism*. Cambridge: Cambridge University Press.
- Nelson, Eric. 2004. *The Greek Tradition in Republican Thought*. Cambridge: Cambridge University Press.
- Nicks, T. and K. Morgan. 1985. "Grande Cache: The Historical Development of an Indigenous Alberta Métis Population." In Jacqueline Peterson and Jennifer Brown, ed. *The New Peoples: Being and Becoming Métis in North America*. Winnipeg: University of Manitoba Press.
- Ober, Josiah. 2005. "Quasi-Rights: Participatory Citizenship and Negative Liberties." *Athenian Legacies: Essays on the Politics of Going On Together*. Princeton: Princeton University Press: 92-127.
- Oliver, E. H. 1914. *The Canadian North-West. It's Early Development and Legislative Records*. Ottawa: Government Printing Bureau.

Olivier, Lawrence et al. 2005. *L'élaboration d'une problématique de recherche: sources, outils et méthode*, Paris, Harmattan.

O'Toole, Darren. 2010. "Thomas Flanagan on the Stand: Revisiting Métis Land Claims and the *List of Rights* in Manitoba." *Interntional Journal of Canadian Studies* 41, 1: 137-177.

O'Toole, Darren. 2008. "Manitoba Métis Claims to Indian Title: 1860-1870." *Canadian Journal of Native Studies*. 28: 2: 241-271.

O'Toole, Darren. 2006. "La revendication du titre 'indien' par les Métis du Manitoba". *Canadian Journal of Political Science* 39, 3: 529-551.

Paine, Thomas. 1997. *Common Sense*. Mineola: Dover Publications, Inc.

Palliser, John. 1969 [1859]. *Papers Relative to the Exploration of that Portion of British North America which lies between the Northern Branch of the River Saskatchewan and the Frontier of the United States; and between the Red River and Rocky Mountains*. New York: Greenwood Press Publishers.

Pannekoek, Frits. 2001. "Métis Studies. The Development of a Field and New Directions." in *From Rupert's Land to Canada*. ed. Theodore Binnema, Gerhard Ens and R.C. Macleod. Edmonton: University of Alberta Press.

Pannekoek, Frits. 1991. *A Snug Little Flock. The Social Origins of the Riel Resistance of 1869-1870*. Winnipeg: Watson & Dwyer Publishing.

Pannekoek, Frits. 1979. "Some Comments on the Social Origins of the Riel Protest of 1869." In *Riel and the Métis. Riel Mini-Conference Papers*. ed. Antoine S. Lussier. Winnipeg: Manitoba Métis Federation Press: 131-160.: 66-83.

Plato. 2000. *The Republic*. Mineola: Dover Publications Inc.

Plato. 1935a. *The Republic*. Books 1-5. Cambridge: Harvard University Press.

Plato. 1935b. *The Republic*. Books 6-10. Cambridge: Harvard University Press.

Plato. 1926a. *Laws*. Books 1-6. Cambridge: Harvard University Press.

Plato. 1926b. *Laws*. Books 7-12. Cambridge: Harvard University Press.

Plato. 1921. *Theaetetus. Sophist*. Cambridge: Harvard University Press.

Plato. 1914. *Euthyphro. Apology. Crito. Phaedo. Phaedrus*. Cambridge: Harvard University Press. Consulted 7 April 2010.

<http://www.perseus.tufts.edu/hopper/text?doc=Perseus%3Atext%3A1999.01.0174%3Atext%3DPhaedrus%3ASection%3D267a>

- Plato. 1924. *Laches. Protagoras. Meno. Euthydemus*. Cambridge: Harvard University Press.
- Plato. 1921. *Theaetetus. Sophist*. Cambridge: Harvard University Press.
- Pocock, John G.A. 2009. *Political Thought and History. Essays on Theory and Method*. Cambridge: Cambridge University Press.
- Pocock, John G.A. 2003 [1975]. *The Machiavellian Moment. Florentine Political Thought and the Atlantic Republican Tradition*. 2nd ed. Princeton: Princeton University Press.
- Pocock, John G.A. 1985. *Virtue, Commerce, and History: Essays on Political Thought and History, Chiefly in the Eighteenth Century*. Cambridge: Cambridge University Press.
- Pouliot, Léon. 1943. "La Proclamation du gouvernement provisoire de la Rivière-Rouge, 8 décembre 1869." *Bulletin des recherches historiques*. 49, 8: 353-358.
- Pritchett, John Perry. 1929. "The So-Called Fenian Raid on Manitoba." *Canadian Historical Review*, 10: 23-42.
- Prud'homme, L. A. 1928. Monseigneur Noël-Joseph Ritchot. Vicaire Général, Protonotaire Apostolique, Curé de la paroisse de Saint-Norbert, 1825-1905. Winnipeg : Canadian Publishers Limited.
- Prud'homme, L. A. 1922. Monsieur l'abbé Louis-Raymond Giroux, directeur du Collège de Saint-Boniface, chapelain du gouvernement provisoire, missionnaire, curé, 1841-1911. Québec : Charrier & Dugal, 1922.
- Rawls, John. 1996. *Political Liberalism*. New York: Columbia University Press.
- Rawson, Elizabeth. 1969. *The Spartan Tradition in European Thought*. Oxford: Clarendon Press.
- Reardon, James. 1955. *Georges Anthony Belcourt, Pioneer Catholic Missionary of the Northwest, 1803-1874*. St.Paul: North Central Publishing Company.
- Renaud, Yvon and Jean-Louis Baudouin. 1977. *La constitution canadienne. Recueil de lois / The Canadian Constitution. Legislative Documents*. Montréal: Guérin Éditeur Ltée.
- Riel, Louis. 1985a. *The Collected Writings of Louis Riel/Les écrits complets de Louis Riel*. Vol. 1. ed. George Stanley and Raymond Huel. Edmonton: University of Alberta Press.
- Riel, Louis. 1985b. *The Collected Writings of Louis Riel/Les écrits complets de Louis Riel*. Vol. 3. ed. George Stanley and Thomas Flanagan. Edmonton: University of Alberta Press.
- Romney, Paul. 1999. *Getting it Wrong. How Canadian Forgot Their Past and Imperilled Confederation*. Toronto: University of Toronto Press.

Ross, Alexander. 1957 [1856]. *The Red River Settlement. Its Rise, Progress and Present State*. Minneapolis: Ross and Haines, Inc.

Schleiermacher, Friedrich. 1977 [1838]. *Hermeneutik und Kritik*. Manfred Frank ed. Frankfurt am Main: Suhrkamp: 467.

Schmitt, Carl. 2007. *The Concept of the Political*. Chicago: University of Chicago Press.

Shaw, Edward. 1970-1971. "Captain William Kennedy, An Extraordinary Canadian." *Manitoba Historical Society Transactions*. 3, 27.

(www.mhs.mb.ca/docs/transactions/3/kennedy_w.shtml#27)

Judith N. Shklar. 1990. "Montesquieu and the New Republicanism." In Gisele Bock, Quentin Skinner and Maurizio Viroli. *Machiavelli and Republicanism*. Cambridge: Cambridge University Press.

Skinner, Quentin. 2008. *Hobbes and Republican Liberty*. Cambridge: Cambridge University Press.

Skinner, Quentin and Martin van Gelderen, ed. 2002a. *Republicanism: a Shared European Heritage*. Vol. I. Cambridge : Cambridge University Press.

Skinner, Quentin and Martin van Gelderen, ed. 2002b. *Republicanism: a Shared European Heritage*. Vol. II. Cambridge : Cambridge University Press.

Skinner, Quentin. 2002c. *Visions of Politics*. Vol. I. *Regarding Method*. Cambridge: Cambridge University Press.

Skinner, Quentin. 2002d. *Visions of Politics*. Vol. II. *Renaissance Virtues*. Cambridge: Cambridge University Press.

Skinner, Quentin. 1998a [1978]. *The Foundations of Modern Political Thought*. Vol. 1. Cambridge: Cambridge University Press.

Skinner, Quentin. 1998b [1978]. *The Foundations of Modern Political Thought*. Vol. 2. Cambridge: Cambridge University Press.

Skinner, Quentin. 1998c. *Liberty before Liberalism*. Cambridge: Cambridge University Press.

Skinner, Quentin. 1990a. "Machiavelli's *Discorsi* and the pre-humanist origins of republican ideas." in Skinner, Quentin, Gisela Bock and Maurizio Viroli, ed. *Machiavelli and Republicanism*. Cambridge: Cambridge University Press: 121-141.

Skinner, Quentin. 1990b. "The republican ideal of political liberty." in Skinner, Quentin, Gisela Bock and Maurizio Viroli, ed. *Machiavelli and Republicanism*. Cambridge: Cambridge University Press: 293-309.

Skinner, Quentin. 1988a [1969]. "Meaning and Understanding in the History of Ideas". In *Meaning and Context. Quentin Skinner and his Critics*. ed. James Tully. Cambridge/Oxford: Polity Press: 29-67.

Skinner, Quentin. 1988b [1976]. "Motives, Intentions and the Interpretation of Texts". In *Meaning and Context. Quentin Skinner and his Critics*. ed. James Tully. Cambridge/Oxford: Polity Press: 68-78.

Skinner, Quentin. 1988c [1972]. "Social Meaning' and the Explanation of Social Action". In *Meaning and Context. Quentin Skinner and his Critics*. ed. James Tully. Cambridge/Oxford: Polity Press: 79-96.

Skinner, Quentin. 1988d [1974]. "Some Problems in the Analysis of Political Thought and Action". In *Meaning and Context. Quentin Skinner and his Critics*. ed. James Tully. Cambridge/Oxford: Polity Press: 97-118.

Skinner, Quentin. 1988e [1980]. "Language and Social Change." In *Meaning and Context. Quentin Skinner and his Critics*. ed. James Tully. Cambridge/Oxford: Polity Press: 119-132.

Skinner, Quentin. 1988f. "A Reply to my Critics". In *Meaning and Context. Quentin Skinner and his Critics*. ed. James Tully. Cambridge/Oxford: Polity Press: 231-288.

Smith, David E. 1999. *The Republican Option in Canada, Past and Present*. Toronto: University of Toronto Press.

Smith, Miriam. 2005. *A Civil Society? Collective Actors in Canadian Political Life*. Peterborough: Broadview Press Ltd.

Smith, Peter J. 1997a. "The Ideological Origins of Canadian Confederation." In Ajzenstat, Janet, and Peter J. Smith. ed. 1997. *Canada's origins: Liberal, Tory, or Republican?* Montréal/Kingston: McGill-Queen's University Press: 47-78

Smith, Peter J. 1997b. "Civic Humanism Versus Liberalism: Fitting the Loyalists In." In Ajzenstat, Janet, and Peter J. Smith. ed. 1997. *Canada's origins: Liberal, Tory, or Republican?* Montréal/Kingston: McGill-Queen's University Press: 109-135.

Spitz, Jean-Fabien. 1995. *La liberté politique. Essai de généalogie conceptuelle*. Paris: Presses Universitaires de France.

Spitz, Jean-Fabien. 2001. « La philosophie politique républicaine aujourd'hui. Un état des lieux ». *Politique et sociétés*. 20, 1: 7-23é

Sprague, Douglas N. 1988. *Canada and the Métis, 1869-1885*. Waterloo: Wilfrid Laurier University Press.

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

Stanley, George F.G. 2000. "William Bernard O'Donoghue." In *Dictionary of Canadian Biography Online*. University of Toronto/Université Laval. Consulted 8 April 2010. <http://www.biographi.ca/009004-119.01-e.php?Bioid=39316>

Stanley, George F.G. 1985. *Louis Riel*. Toronto: McGraw-Hill Ryerson.

Stanley, George F.G. 1978. "Confederation 1870 – A Métis Achievement." In *The Other Natives: the-les Métis*. Vol. 1., ed. Antoine S. Lussier and D. Bruce Sealey. Winnipeg: Manitoba Métis Federation Press and Éditions Bois-Brûlés: 63-86.

Stanley, George F.G. 1961. *The Birth of Western Canada: A History of the Riel Rebellions*. Toronto: University of Toronto Press.

Stewart, Gordon T. 1986. *The Origins of Canadian Politics. A Comparative Approach*. Vancouver: UBC Press.

St-Onge, Nicole. 2004. *Saint-Laurent, Manitoba. Evolving Métis Identities, 1850-1914*. Regina: Canadian Plains Research Centre, University of Regina.

St-Onge, Nicole. 1983. "The Dissolution of a Métis Community: Pointe à Grouette, 1860-1885." *Studies in Political Economy*. 18: 149-172.

Stubbs, Roy St. George. 1967. *Four Recorders of Rupert's Land*. Winnipeg: Peguis Publishers.

Sukale, Michael. 1997. "Einleitung." in Max Weber. *Schriften zur Sozialgeschichte und Politik*. Stuttgart: Reclam.

Taylor, Charles. 1997 [1979]. "What's Wrong with Negative Liberty." in *Contemporary Political Philosophy: An Anthology*. ed. Robert E. Goodin and Philip Pettit. Cambridge, Mass: Blackwell Publishers: 211-229.

Teillet, Jean. 2006. *Métis Law Summary*, document PDF.

Thistle, Paul C. 2008 [1997]. "The Twatt Family, 1780-1840: Amerindian, Ethnic Category, or Ethnic Group Identity?" in Patrick C. Douaud (ed.). *The Western Métis: Profile of a People*. Regina: Canadian Plains Research Centre.

Thomas, Lewis Herbert. 1978 [1956]. *The Struggle for Responsible Government in the North-West Territories, 1870-97*. Toronto: University of Toronto Press.

Thorne, Tanis C. 1996. *The Many Hands of My Relations: French and Indians on the Lower Missouri*. Columbia: University of Missouri Press.

Tocqueville, Alexis de. 2003. *Regards sur le Bas-Canada*. éd. Claude Corbo. Montréal : Éditions Typo.

Trémaudan, Auguste-Henri de. 1984 [1936]. *Histoire de la nation métisse dans l'Ouest canadien*. Saint-Boniface : Éditions des plaines.

Trigger, Bruce. 1976. *The Children of the Aataentsic. A History of the Huron People to 1669*. Montréal/Kingston: McGill-Queen's University Press.

Trigger, Bruce. 1975. "Brecht and Ethnohistory." *Ethnohistory* 22,1: 51-56.

Tully, James. 1988. "The Pen is a Mighty Sword: Quentin Skinner's Analysis of Politics. In *Meaning and Context. Quentin Skinner and his Critics*. ed. James Tully. Cambridge/Oxford: Polity Press.

Tully, James. ed. 1988. *Meaning and Context. Quentin Skinner and his Critics*. Cambridge/Oxford: Polity Press.

United Kingdom. 1857. *Report from the Select Committee on the Hudson's Bay Company*. London.

Urbinati, Nadia. 2002. *Mill on Democracy. From the Athenian Polis to Representative Government*. Chicago: University of Chicago Press.

Van Kirk, Sylvia. 1980. *Many Tender Ties. Women in Fur-Trade Society, 1670-1870*. Winnipeg: Watson and Dwyer Publishing.

Vipond, Robert C. 1991. *Liberty and Community: Canadian Federalism and the Failure of the Constitution*. Albany: State University of New York Press.

Viroli, Maurizio. 2002. *Republicanism*. New York: Hill and Wang

Weber, Max. 1992. *Politik als Beruf*. Stuttgart: Reclam.

Weber, Max. 1949. *The Methodology of the Social Sciences*. New York: The Free Press.

White, Bruce M. 1999. "The Power of Whiteness, or the Life and Times of Joseph Rolette Jr." in Anne R. Kaplan and Marilyn Ziebarth (Ed.) *Making Minnesota Territory, 1849-1858*. St. Paul: Minnesota Historical Society Press.

Wood, Gordon S. 1987. "Ideology and the Origins of Liberal America." *William and Mary Quarterly*. 44, 3: 628-640.

Wood, Gordon S. 1969.

Zeller, Suzanne. 2000. "McDougall, William." *Dictionary of Canadian Biography Online*. Toronto/Québec: University of Toronto/Université Laval. Consulted on 24 November 2009. www.biographi.ca/009004-119.01-e.php?&id_nbr=6901

Newspapers

- Nor'-Wester*. "Why We Are Not Annexed to Canada." 28 December 1859: 2.
Nor'-Wester. "Red River a Crown Colony." 28 February 1860: 2.
Nor'-Wester. "A Crown Colony for Red River!" 28 February 1860: 3.
Nor'-Wester. "The Land Question." 14 March 1860: 2.
Nor'-Wester. "Annexation to Canada. What Canadian Papers Say on the Subject." 28 March 1860: 2.
Nor'-Wester, "Immigration." 14 April 1860: 2.
Nor'-Wester. "Position of Red River in a Colonial Federation." 1 February 1861: 1.
Nor'-Wester. "The French Halfbreeds." 15 August 1861: 2.
Nor'-Wester. "History of the Red River Settlement." 14 September 1861: 3.
Nor'-Wester. "The Plain-Hunting Business." 15 November 1861: 2.
Nor'-Wester. "Secession in Red River." 11 June 1863: 2.
Nor'-Wester. "The Saskatchewan. Notes and Musings of a Rambler." 17 March 1864: 3.
Nor'-Wester. "An Important and Significant Movement. 19 February 1869: 1.
Nor'-Wester. "Our New Government." 26 June 1869: 2
Nor'-Wester. "Rather Mixed" and "Notice." 24 July 1869: 2.
Nor'-Wester. "The Why and the Wherefore." 23 November 1869: 1.
- New Nation*. "Mass Meeting." 21 January 1870: 2-3.
New Nation. "Les droits civils." 21 January 1870: 2.
New Nation, "Convention at Fort Garry." 28 January 1870: 2-3.
New Nation. "Convention at Fort Garry." 4 February 1870: supplement.
New Nation. "Convention at Fort Garry." 11 February 1870: 1-4.
New Nation. "Convention at Fort Garry." 18 February 1870: 1, supplement.

Case Law

- Calvin's Case* (1608), 4 Co. Rep. 1a at 4b, 77 E.R. 377.
Campbell v. Hall (1774), 1 Cowp. 204, 98 E.R. 1045.
R. v. Keyn (1876), 2 Ex. D. 63.
Forest v. Manitoba (Attorney-General), [1979] 2 S.C.R. 1032.
R. v. Blais, [1997] 3 C.N.L.R. 109.

Legislation

- Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, App. II, No. 5.
Constitution Act, 1982, being Schedule B to the *Canada Act 1982* (U.K.), 1982 c. 11.

Manitoba Act, 1870, S.C. 1870, c. 3, reprinted in R.S.C. 1985, App. II, No. 8.
An Act for Extending the Jurisdiction of the Courts of Justice in the Provinces of Upper and Lower Canada (U.K.), 43 Geo. III. c. 138. (*Canadian Jurisdiction Act*)
An Act respecting the Public Lands of the Dominion, S.C. 1872, c. 23, as am. by S.C. 1879, c. 31, ss. 125(e). (*Dominion Lands Act*).