



## *Article*

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# Rejecting the Standard Discourse on the Dispossession of Métis Lands in Manitoba

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## I. Introduction

The modern historical debates on Manitoba Métis land entitlements have been formed in large part by researchers working for the litigants in a legal case that originally emerged in the mid-1980s.<sup>1</sup> That legal dispute reached a climax in 2013 with a finding that the Crown had failed to live up to its honourable obligations in distributing constitutionally promised lands to the Métis in Manitoba.<sup>2</sup> One of the researchers, who acted as an expert witness in the case, was Thomas Flanagan. His work formed a major component of the historical background compiled by the Department of Justice as part of a planned defense against Métis assertions of wrongdoing on the part of the Crown (Flanagan 1991, vii-ix). Some of that research was published in a book called *Metis Lands in Manitoba*, which garnered several prizes.<sup>3</sup> Flanagan's historical "research" appeared quite detailed, but the narrative he provided (or did not provide) on the social context of the time was a stark contrast to others in the field. For example, the work of D. N. Sprague (1988) presents a historical narrative that places the distribution of Métis lands in Manitoba within an explanation of the kinds of social forces that were at play during the mid-to-late 1800s. In short, Sprague's work appeared to place more emphasis upon the social context than did Flanagan's. It was not that Flanagan got the context wrong; it was simply that it was absent, or seemed to be severely underplayed in his text. Instead, Flanagan emphasized the work of particular historical actors and measured the fair distribution of Métis land entitlements largely quantitatively and, ultimately, individually. This choice of analysis informs (or perhaps is informed by) his methodology, and ultimately obscures the Aboriginality of the Métis land rights from the view of his audience.

This paper will characterize some of the main features and tendencies that ground what I term the standard discourse on Métis dispossession in Manitoba (from now on I will refer to this just as "standard discourse"). Examining the underlying historical approaches, values, and interpretive methods of this discourse will reveal its lack of utility in interpreting

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1 *Dumont v. Canada (Attorney General)*, [1990] 1 S.C.R. 279.

2 *Manitoba Metis Federation Inc. v. Canada (Attorney General)*, 2013 SCC 14, [2013] 1 S.C.R. 623. In this case, the majority of the court declared "[t]hat the federal Crown failed to implement the land grant provision set out in s. 31 of the *Manitoba Act, 1870* in accordance with the honour of the Crown" (para.154).

3 Wikipedia contributors, "Tom Flanagan (political scientist)," Wikipedia, The Free Encyclopedia, [https://en.wikipedia.org/w/index.php?title=Tom\\_Flanagan\\_\(political\\_scientist\)&oldid=779645642](https://en.wikipedia.org/w/index.php?title=Tom_Flanagan_(political_scientist)&oldid=779645642).

things like collective rights, treaty rights, and government obligations. It is in regard to such considerations that I believe the interpretive approaches used in the standard discourse are fundamentally flawed. Therefore, while some researchers have taken on the substantive arguments presented in the standard discourse (Asch 2014; O'Toole 2008; Sprague 2007), the flaws are so deep that the debate they generate calls for rejection of, rather than engagement with, these terms. Of course, one cannot simply reject an argument completely out of hand. I write this paper to establish some of the basis for such a rejection. The hope is that Métis scholars can focus more on writing their own histories rather than being bogged down in responding to the histories, and historical frameworks, that others have created.

This paper will argue that the standard discourse should be rejected for four reasons (there may be others). First, the standard discourse repeatedly relies on negative proof. That is, it either directly or indirectly uses the absence of evidence as the basis for making declarations about history. Second, the standard discourse represents little more than an apologist manoeuvre for government action. This, of course, presents a challenge for Aboriginal peoples because it is governmental bureaucracy, law, and priorities that present the major challenge to Aboriginal self-determination. Third, the standard discourse is an exercise in methodological individualism, which is a method that can be critiqued on its own (Bhargava 1992), but can also be critiqued for its inappropriateness in this particular context. And here I maintain that it is entirely inappropriate for considering things like collective rights and treaty rights, and assessing government fulfillment of duties. Fourth, I will single out the loudest voice in this discourse, Thomas Flanagan, and illustrate how Flanagan has consistently undermined Aboriginal cultures. It is an interpretive tendency that cannot be ignored. I will conclude by summing up how all of these flaws come together to create dubious history that naturally leads to interpretations of history that justify the dispossession of the Métis in Manitoba. This does not mean that the entirety of the historical research constructed through these methods is flawed; but while the standard discourse might provide historical insight through its coverage of the source materials, there remain deep flaws in the interpretive lens that it applies to that source material.

I have called the work of Flanagan the standard discourse on Métis dispossession not because it contains the most widely held positions academically, but because it reflects the ways in which the arguments around Métis land issues were and still are informed. One need look no farther than the MMF decision to see that many of Flanagan's constructions of the nature of Métis claims (and indeed the ways in which the litigation was carried out) are reflected in the findings of fact at trial (*MMF Inc. v. Canada* 2008; O'Toole 2008, 2010). I will not turn this paper into a legal analysis, but will set out a basic description of the arguments that have characterized much of the academic literature regarding Métis land entitlements in Manitoba, which have focused on "push" or "pull" factors.<sup>4</sup> Generally speaking, "push" factors are designed to show the Crown acted to, or created conditions

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<sup>4</sup> Some major works taking on various aspects of these argumentative lines are Chartrand (1991); Ens (1996); Flanagan (199); Friesen (1984); Giraud (1986, vols. I and II); Morton (1967); Pannekoek (1991); Pelletier (1979); Sealey (1975); Sprague (1988); Stanley (1961). There are more works and many additional articles.

that allowed others to, push the Métis off their land entitlement through fraud, neglect, delay, abuse, and so forth. This argument is designed to show that the absence of a Métis land base (of 1.4 million acres, as they were promised in the *Manitoba Act*) is actually the fault of the Crown. In contrast, the “pull” factors are meant to show that the Métis willfully sold their lands to pursue other economic activities farther west. The impression given with this argument is that the Métis had no use for the lands, or decided the immediate economic benefit from sales was greater than holding out, or were already in the process of leaving the territory for better economic opportunities. In short, the “pull” arguments put the blame for the lack of a modern Métis land base squarely on the Métis themselves, who were seen as having been pulled away from their lands to better opportunities elsewhere. The “pull” narrative infuses the work of the standard discourse on Métis dispossession and will, therefore, be critiqued in this paper. Still, this paper is not aimed at taking a position on this push/pull narrative. Rather, I am writing this to unpack tendencies of scholarship that fundamentally lead to a denial of Métis peoplehood and agency.

One might expect, as did those who reviewed an earlier draft of this article, that an article on Métis lands in Manitoba would rehash the push/pull historical narratives or the legal arguments that were based on them. I do not intend to that here. The brief outline above is enough for the purposes of this paper, and more details will be revealed throughout the paper. Instead of rehashing those arguments, I will draw some themes from the standard discourse that can help unpack what has become a major contribution to popular Métis history in Manitoba. In exploring these themes, I discovered that some of the methods of argumentation that Flanagan uses are shared by other researchers on Métis history such as Gerhard Ens. Ens is also a major contributor to Métis historical writing, and has served as an expert witness for the Crown. Due to their contributions to the field, and in consideration of how the foundations of their research align with colonial mentalities, these scholars form the backbone of the “standard discourse”<sup>5</sup> on Métis dispossession in Manitoba.

It is important to clarify that the characterization of this “standard discourse” is not meant to reflect what I perceive as the dominant voice in academia. Instead, it deserves such a characterization precisely because Flanagan has helped to set the table for these debates. Take, for example, this article, which explores (again) a type of counternarrative to that of Flanagan. I say “again” because scholars have been doing this for quite some time. In another example, Darren O’Toole, a legal academic, has written a counternarrative to some of the assertions that Flanagan has made regarding Métis claims to title in Manitoba (O’Toole 2010). In such examples, Flanagan sets the agenda and other scholars react. A few years back, I was asked to provide a similar counternarrative on Métis history for a collection that was to be based on papers presented at a conference at which Flanagan was the keynote speaker. I was torn by this invitation. On one hand, it seemed that a Métis voice would be a good thing with which to start a counternarrative. On the other hand, reacting

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5 Just as this standard discourse requires a response, so too did the standard account of residential schools. For that response, see Chrisjohn, Young, and Maraun (2006), and Truth and Reconciliation Commission (2015).

to the standard discourse had already been a major focus for Métis researchers. Ultimately, I could not bring myself to interrupt my other tasks in order to write such an article. It is with some reflection on that experience that I have come to see that the standard discourse does not find its main victories in convincing other academics of the rightness of its conclusions. Rather, the standard discourse has found its main victories in determining the research agendas of those who could be doing other, perhaps more interesting or creative, historical research, because it has confined even those counterarguments to the pillars upon which the standard discourse is based. Another example of this can be found in an article by Sprague in which he adopts the same methods as Flanagan to write a corrective account of an earlier Flanagan article (Sprague 2007). Sprague's counterargument operates largely on the same premises as Flanagan's, and focuses on quantitative accounting of Métis lands—although even here, Sprague does find some room to explain how the broader social context affected those transactions.

It is clear that Flanagan's narrative has an extensive reach. More to the point for the purposes of this paper, though, is that the standard discourse ties in to other social values, such as individualism and capitalism, in ways that make it seem like it must be the correct way to analyze things. If one begins to work on how colonizing populations tend to undermine the claims of prior occupants when those claims inconvenience the ways of life (such as the "economy") of the colonizer (and Métis claims to 1.4 million acres in Manitoba would seem to do just that), it is not hard to appreciate how the average citizen might be sympathetic to the constructions of history provided by the standard discourse. It is equally possible to imagine how a court of law might find weight in these values.<sup>6</sup>

This standard discourse focuses primarily on the participation of both Métis and speculator in the market for Métis lands in Manitoba. This focus looks primarily at the actions and intentions of individuals to explain the exodus of the Métis from Manitoba after 1870. It fails to address collective implications of the *Manitoba Act*, such as whether there is a treaty, or, as the Supreme Court of Canada framed it, a "treaty-like" agreement (MMF 2013, para. 92) rooted in the Act. Beyond the issue of whether the authors of the standard discourse intended to underplay or avoid collective interests, the essential interpretive and rhetorical techniques used in the standard discourse tend toward avoiding the collective. This examination is important, because to accept the frame of reference used in the standard discourse and merely argue outcomes is unwittingly to commit a fallacy of historical research where mass opinion is taken as a method of verification (Fischer 1970, 52).<sup>7</sup> I argue that the standard orthodoxy is faulty (Flanagan 2000, 3),<sup>8</sup> leading to

6 Some background reading on how values influence legal discourse and the history of colonialism in law can be found in Berger (1991) and Williams (1990). For an overview of various accounts of the emergence of the Métis as a distinct people, see O'Toole (2013).

7 At 52 he writes, "*The fallacy of the prevalent proof* makes mass opinion into a method of verification" (emphasis in original).

8 Here Flanagan has characterized his opposition to the Report of the Royal Commission on Aboriginal Peoples as "confronting ... a new orthodoxy, widely and firmly accepted in all circles exercising any influence over aboriginal policy." For the most part I could use the same characterization for Métis lands in Manitoba. And Flanagan is part of that *standard* orthodoxy.

historical accounts that are deceptive and guided away from Aboriginal perspectives. While challenging such research on the basis of inclusion or exclusion of Aboriginal values is a valid critical approach, this paper does not need to tread those waters to illustrate the dangers of accepting these authors' conclusions at face value. Challenging rhetorical approaches and methodological techniques should help people avoid duplicating those mistakes, and thus also avoid having those problematic aspects of research find their way into mass opinion. Indeed, we should be willing to challenge the premise, and not merely the internal logic or outcomes, of arguments.<sup>9</sup>

## II. The Negative Proof and the Assumption of Government Benevolence

### *II.a) Assessments and Characterizations: A Note on Rhetoric*

The assumption of the benevolence of the Crown accompanies one of the main arguments found in the standard discourse: that government misadministration of Manitoba lands has little if anything to do with the Métis dispersal from Red River (Flanagan 1991, 232). In fact, the standard discourse goes farther, to argue that the Métis were willing and rational land dealers who chose to sell their lands and see the benefit in terms of dollars (Flanagan 1991, 230). While this articulates some of the positions that have been reached through the standard discourse, the problem is not the particular conclusions per se but rather how they have been reached. For example, in the above argument, once the land is shown to have been granted, or mostly granted, the standard discourse can show that any loss of land is a result of Métis decision-making internal to individual members of the group, rather than to external forces.<sup>10</sup> What should precede this type of argument, however, is a justification of why the market for land is the proper measuring stick here—and Flanagan never provides that. This should include an explanation of how the Métis communal land base was able to be individualized and sold through individual land deals. On this latter point, Flanagan acknowledges that the Métis were seeking what he calls an “enclave” (1991, 230), but rather than investigating the differences in understanding between the Métis and Canada, Flanagan skirts the issue by opting to rely on the contrary intentions of the government actors, who, he argues, “had no intention of establishing a Metis enclave” (1991, 229).

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<sup>9</sup> This sometimes requires stepping back from the guts of particular debates, whether those be legal or theoretical, in order to assess how arguments have been constructed. No doubt this approach will not appeal to all readers. For example, one reviewer of an earlier draft of this article seemed to want the argument to venture into the legal tests and theoretical debates, and cite Métis scholars. Indeed, that reviewer argued that I “sublimely ignore[d]” the debates around methodological individualism, that I showed little competence in analyzing law, and that I did not cite the work of particular Métis scholars. At one point, Paul Chartrand’s book (1991) and five articles written by Darren O’Toole were alluded to by this reviewer. Perhaps this is a reflection of the reviewer wanting the article to venture into a legal analysis. This paper does not purport to put forth a legal analysis, nor did the draft. A paper like this cannot be for everyone.

<sup>10</sup> Flanagan chalks up the external forces argument to the “intellectual error of animism or anthropomorphism, that is, the attribution of personal consciousness and intention to impersonal processes” (231).



By focusing their analysis on a competitive market, the authors can measure the average value of land sales (Flanagan 1991, 123), and it is evident (at least according to the official historical documentation) that a great many Métis did well in both buying and selling lands in terms of the going land values of the day (Ens 1996, 168). All of this serves as a classic manoeuvre in “blaming the victim” (Ryan 1976, 3–30). In blaming the victim, the humanitarian, or in this case the historical writer, can take the social structure for granted (here it would be the market) and argue that the decisions of individuals were what determined their fate. For example, this can be applied to the problem of poverty by arguing that the poor are poor because they lack financial literacy skills. Instead of necessitating a change in social relationships, the problem of the poor can be located firmly with the decision-making of the poor. In the case of the Métis, the standard discourse focuses on their individual intentions (Flanagan 1991, 232), even while suggesting that there might have been something wrong with the context in which the sales took place. On this point, Flanagan writes, “The proper target of criticism, if criticism is justified, is not the market and the speculators but the federal government’s decision to grant freehold property rights without restraint on ability to sell” (129). Yet Flanagan only ever examines these questions in passing, preferring instead to keep his focus on the exchange of lands within the market.

Unfortunately, because of the Eurocentric nature of this thinking, the standard discourse is, for most people, easy to follow, and it operates on the general understandings of personal freedom and individual equality that are common pillars of fairness in today’s Canadian society. It is through these common values that the absence of evidence or context for one position can be interpreted by readers as validation of the opposing position. The standard discourse is, however, misleading and inaccurate. Take, for example, one of Flanagan’s stronger statements, that “[t]here is also no evidence that the way in which the Manitoba Act was implemented encouraged the movement of the Metis out of Manitoba” (1998, 5). This is false. Simply because Flanagan chooses not to examine the evidence (discussed above and outlined in *MMF* [2013]), or does not know how to fit it into his quantifiable models, does not mean that there is *no* evidence. After all, he recognized that implementation may have been one of the key issues when he put forth the notion that the federal government’s decision not to restrain sales might be the “proper target of criticism.” This reasoning helps to place the blame for Métis dispossession on the Métis by assuming government benevolence in the absence of evidence of malevolence. After all, it is difficult to see intentionality in policy decisions coming from Ottawa.

Fischer explains the fallacy of basing assessments on negative evidence as follows: “The *fallacy of the negative proof* is an attempt to sustain a factual proposition merely by negative evidence. It occurs whenever a historian declares that ‘there is no evidence that X is the case,’ and then proceeds to affirm or assume that not-X is the case” (Fischer 1970, 47; emphasis in original). In histories of the standard discourse, this style of argument appears repeatedly. Here is one example from Ens: “[T]here is nothing in the historical record to indicate that these latest selections, made in consultation with the inhabitants of these parishes, were unsatisfactory to the Metis” (Ens 2006, 42–43). And so we are left

with the impression there were no hiccups. A person could as easily write the sentences as follows: "There is nothing in the historical record to indicate that these latest selections, made in consultation with the inhabitants of these parishes, were ultimately satisfactory to the Métis." Such statements are not reporting anything of substance, but they are implying a great deal. We simply do not know whether they were satisfactory or not based on the evidence used by the authors.

Such strategies serve to distract us from other reasonable arguments. If a person can cast the illusion that there is no evidence for discontent, then anyone raising such an argument will immediately be looked at with suspicion. In such an instance, the complainer must be stretching, being extremely liberal with other (tangential) evidence, making things up, or a conspiracist.<sup>11</sup> But the world of the standard discourse is made up as well. The authors are creating the illusion of peace and contentment where there is no direct evidence for it. This is surprising, considering their reliance upon a literalist interpretation of historical material. If there were direct evidence for it, they would have written the sentence in a much more positive fashion, as follows: "The historical record indicates that these latest selections, made in consultation with the inhabitants of these parishes, were satisfactory to the Métis." They then would have supplied a corresponding footnote. Because they cannot write that, they do the next best thing and try to prove a point through absence of evidence. The project that they employ is one of distraction and selectively casting the evidence, or lack thereof, to suit their particular values (which happen to correspond favourably with the government's agenda).

Ens makes general statements about the lack of evidence, such as, "It does not appear that these alternative selections resulted in any discontent after 1872, or at least no evidence of continuing discontent has been found" (2006, 34). After all, Ens points out that a more contentious issue at the time was "related to homestead and sale entries made prior to land being set aside as reserves by [Lieutenant Governors of Manitoba] Archibald and [Alexander] Morris" (2006, 34). This is understandable, since, the way Ens characterizes it, there were no major violations of the agreement that can be linked to the *selection* of lands (2006, 34).<sup>12</sup> Rather than examine how these substitutions may have detrimentally affected the Métis, Ens merely looks to the *efforts* of the lieutenant governor in order to write off the problems associated with land distribution as small matters. To support this dismissive tactic, Ens talks about a lack of evidence, explaining that he can find no evidence that the Métis were perturbed by Archibald's actions.

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11 For example, Flanagan calls this conspiracy thinking: "[T]he result is a kind of conspiracy thinking that sees federal politicians, provincial politicians, civil servants, judges, and speculators in league with one another. More restrained versions point the finger at these villains without concocting theories of an elaborate alliance" (1991, 231–32).

12 Here Ens writes: "In almost all cases Archibald reserved lands that were within the areas requested by the Metis. Though the Metis of St. Charles did not receive lands they had requested along the Riviere aux Ilets de Bois, they did receive two townships along the Sale River which they had also requested, fulfilling the requirements of that parish. Only in the cases of Headingley, High Bluff and Poplar Point did Archibald substitute some alternative townships close to the parishes in question."



It should not be a surprise that certain documentation would not reveal bad intentions. Michael Parenti explains how blind adherence to archival material can be dangerous: “Those engaged in the manufacturing of history often introduce distortions at the point of origin well before the history is written or even played out. This initial process of control is not usually left to chance but is regularly pursued by interested parties who are situated to manipulate the record” (1999, 129). None of this caution would have seemed important to the standard discourse, which is highly literal and reductionist. And so it is that with the work of the standard discourse we are left, in more than a few instances, with rhetoric of negative proofs taking the position of contextual reason. Some of these themes will play out in the next section as well, where we look at how the standard discourse acts as a government apologist.

## *II.b) The Government Can Do No Wrong*

The critique of Crown action offered by the standard discourse is repeatedly directed toward negative proof, and uses that void to paint a rosy picture of government actions and intentions. Take, for example, the following quotation:

There is no evidence that anyone in the federal government—in Parliament, cabinet, or the public service—intended to implement the Manitoba Act in such a way as to deprive the Métis of their legal benefits or to encourage them to sell land and scrip and leave the province. On the contrary, there is a great deal of evidence that federal officials and statesmen conscientiously tried to meet the desires of the Métis in carrying out the Act. (Flanagan and Ens 1998, 5)

In addition to the negative proof that opens this quotation, this statement is a typical example of the apologist approach of the standard discourse. In Flanagan’s rhetorical style, one might point out that there is no evidence that the cow dreamt of jumping over the moon. On the other hand, there is no evidence that the cow did *not* dream of jumping over the moon. Here, dreams and intentions share a common value: they both may, or may not, have a link to actions in the real world. To carry this to Flanagan’s argument, we could say that *there is no evidence that anyone in Parliament did not intend to deprive the Métis of their lands*. The condition upon which Flanagan has rested his analysis is entirely worthless in determining whether government *action* contributed to the Métis losing their constitutionally guaranteed land base. As Flanagan himself points out, the distribution of lands involved a bureaucratic mess resulting in great delays.<sup>13</sup> While this mess cannot hold “intent,” it can manifest itself in such a way that its operation denies the interests of the Métis people.

While the question of the intention of individual government actors might be interesting, it is ultimately neither here nor there when one is confronting the question of

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<sup>13</sup> Although on this point, Flanagan (1991) actually sees the delays as resulting in certain benefits to the Métis (225). Flanagan finds a way to underplay the fact that the delays would have resulted in “some potential reserve land [being] claimed by immigrants to Manitoba.”

whether the Métis received their lands as promised. Instead, the discussion of intention serves to obfuscate the issue of fulfillment of the Métis land entitlement. Arguing about intention, then, becomes a type of apologist manoeuvre through which one can argue that there were no bad “intentions,” and therefore (by implication) if anything was done out of turn, it must have been an anomaly. This is a common technique used to blame Aboriginal peoples for their own experiences of dispossession. Take, for instance, the standard account of residential schools, which had as its initial common theme the assertion that residential schools were created with the best intentions (Chrisjohn, Young, and Maraun, 20). Chrisjohn, Young, and Maraun called this depiction of residential schools a myth. Similarly, we can call “myth” on the apologist assertions made through the standard discourse on the Manitoba Métis as well. There are really two aspects to this government apologist approach. The first is to accept government action as legitimate (or assume it to be so), and the second is to find some way to dismiss government bumbling, ineptitude, or malfeasance. This is best illustrated through examples.

Assuming the rightness of the Crown helps to validate Flanagan’s reliance upon the *official historical record* in its *literal* form. Even if the books were cooked, Flanagan just sits back and enjoys the soup, no matter how much contextual evidence is encouraging regurgitation. Sprague has made this point elsewhere (without reference to regurgitating soup). For example, in response to Flanagan’s uncritical acceptance of the documentation of the Dominion Lands Office, Sprague has maintained that there was widespread fraud related to the Métis land entitlement:

To maintain that there was wholesale fraud one must have a plausible basis for impugning the validity of the records of “more than ten thousand separate transactions.” We do. We have the sworn testimony of witnesses including the chief justice of the Manitoba Court of Queen’s Bench to the effect that “all sorts” of devices were resorted to and the prices indicated by the sales documents bore little relation to the value of the received. Because of that cloud, we have great difficulty in determining which sales were bogus and which were genuine. That is the reality Flanagan ignores. (1992, 263)

Sprague’s critique here is not designed to say that Flanagan is necessarily wrong. However, the critique does point out that Flanagan is not providing his readers with a comprehensive analysis. Sprague has shown that there is a very solid reason to question aspects of the official historical record. Flanagan just ploughs forward and refuses to engage with that additional material.<sup>14</sup> And it is exceedingly important to consider the kinds of evidence that Sprague has mentioned because, as Michael Parenti points out, the writing of history can be a less-than-liberating experience for those who are not in a position to craft it:

The writing of history, Voltaire believed, should be one form of battle in the age-old war for our intellectual emancipation. Too often, however, history is written and

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14 See Flanagan (1991, 231), where he writes: “To maintain there was wholesale fraud, one must believe that most of the records relating to more than ten thousand separate transactions are somehow false, even though they appear to be normal.”

marketed in such a way as to be anything but liberating. The effect is not to enlighten but to enforce the *existing political orthodoxy*. Those who control the present take great pains to control our understanding of the past. (1999, xi; emphasis added)

Pausing to consider how such historical records might not be reflecting the truth by considering other qualitative source material might muddy the waters of Flanagan's pristine conception of government action. And, not surprisingly, he steadfastly refuses to do so, arguing instead that "[t]o show fraud and dishonesty, one would have to disprove the other explanatory hypothesis that the Metis sold their lands voluntarily" (231). This is a spurious argument, because it is possible that the Métis sold their land voluntarily *and* were the victims of fraud and dishonesty. After all, in most cases, a good fraud might well depend on the willing (although unsuspecting) participation of the victim.

Because of his failure to give much weight to the context beyond the official documentation, Flanagan's meticulous accounting of government sources only proves that the government kept extensive documents. It does not ensure the accuracy or proper contextualization of those documents. This decontextualized research amounts to a poor historical research method. Consider the "quantitative fallacy" of historical analysis, "which consists in the idea that the facts which count best count most" (Fischer 1970, 90). "[T]he quantitative fallacy is ... a criterion of significance which assumes that facts are important in proportion to their susceptibility to quantification" (Fischer 1970, 90). Thus, Flanagan is apt to assert that the government "overfulfilled" its obligations because he can quantify the amount of land distributed (1998, 4).<sup>15</sup> He does not offer a qualitative assessment that convinces the reader that *the way in which the government distributed those lands* was, in fact, the correct method. Nor does he take on any problems that may have been encountered at the point of production of the historical record. For example, do the prices recorded in the documents as having been paid for land reflect actual transfers of funds? If "all sorts of" devices" were used in the sale of lands, as Sprague reminds us, then there would seem to be a need for extra caution in taking government documents at face value. This lack of context serves to undermine Flanagan's basic thesis regarding the Manitoba Métis, which is as follows: "Metis land sales and emigration were part of a broad social movement rather than a narrow response to supposed violations of the Manitoba Act" (1998, 5). This either/or construction is false, and does not reflect an attempt to balance the historical context. Rather, it is worded as if Flanagan were preparing for litigation (and, as he reminds us, he was) (Flanagan 1991, vii–ix).

Still, one has to wonder how Flanagan can be comfortable with dismissing government ineptitude based on *intention* when his own math reveals striking violations. For example, his own evidence reveals that rightful claimants were missed in the land distribution process. As a result, certificates entitling the bearer to land or money (called "scrip") had to be issued: "In the end, 993 scrips for \$240, worth \$238,320, issued to Metis children or their heirs" (Flanagan, 1998, 13). Again, I do not see any *intention* in that, but I do see almost 1,000 violations of the Crown's responsibility.

<sup>15</sup> Here he writes: "The major finding of my research is that the federal government appears to have fulfilled or even overfulfilled its obligations under ss.31 and 32 of the Manitoba Act."

Gerhard Ens uses a subtler technique to justify Crown actions. For Ens, “efforts” become key to interpreting the actions of government officials. If one does not buy into the assumptions that underlie Ens’s work, then his report reads like a litany of violations rather than an argument that the Crown met its obligations (see Ens 2006). Like Flanagan, Ens does not seem to give much weight to the social pressures that pushed the Métis from Manitoba (which he acknowledged would influence people to abandon their lands) (Ens 1996, 161–62), nor does he reflect too deeply upon governmental responsibility.

Still, Ens will acknowledge government missteps. Not surprisingly, some of these missteps infringed directly upon lands claimed by the Métis as part of their constitutionally promised lands. When the government failed to remove all settlers from one such location, Ens notes that the Métis “began to become suspicious of the government’s good faith” (Ens 2006, 33). This is not surprising, since such a transgression was the foreseeable result of this government policy. To mount an apology for this behaviour, Ens turns to the efforts of government officials by arguing that “the government tried to mitigate its effects and generally accommodate Métis demands, as well as they could be, given the protection that the Order-in-Council of May 26, 1871 had given to settlers” (Ens 2006, 33). But after acknowledging the misstep, Ens seems to treat the OIC as not representative of government action. Instead, Ens focuses on the government’s *intention* to correct its wrongs, even though it was clearly just another aspect of “the government” that created the problem in the first place. Ens’ division of government implementation action from policy action is false. It is akin to arguing that a person who assaults another person should be commended because, while they were carrying out the assault with their left hand, they were using their right hand to try and protect the victim.

Ens continues the practice of focusing on the individual efforts of government agents in a way that takes attention away from the Crown’s mistreatment of the Métis. For example, regarding High Bluff and Poplar Point, Ens provides an account of how the Métis were denied the selections that they had made (or were only partially granted them), and he dismisses this violation of Métis interest by stating that “Archibald made reasonable *efforts* to accommodate the desires of the Metis in reserving the lands they wished” (Ens 2006, 33, emphasis added). The point in criticizing Ens for looking at efforts or intentions is to illustrate that such strategies of interpretation result in obfuscating the real issues by hiding the *impact* of the initial violation. It is the impact of such violations that the Métis had to deal with, not the intentions of the government actors creating, implementing, or remedying them.

The emphasis on the personal performance of particular government agents also results in the actions of the Crown never being fully examined. After all, it was the Crown that sanctioned the intrusions of settlers and refused to remove them from the Métis land selections. How can we say that Lieutenant Governor Archibald’s response was reasonable? In order to make it reasonable, we have to accept the broader transgressions of the Crown as either inevitable, appropriate, or mere background noise. Or we have to reduce Métis rights to being equal to those rights of incoming settlers. This does not seem just since the

Métis rights preceded the rights of the settlers and should have been settled prior to settlers having any claims recognized.

Further, by focusing on Archibald's individual action and efforts, it is easy to lose sight of the fact that he was an agent of the Crown, and Crown policy was damaging. Ens notes that settler occupation of Métis lands was a sore spot for the Métis. Here Ens writes: "The recognition of these [settler] claims continued to irritate the Metis of St. James until the late 1870's, and for the next seven years the land office would *try* to determine which claims had enough improvements to qualify for homesteads, cancelling some and approving others" (2006, 35–36). It is apparent that despite the efforts of government officials and lieutenant governors, the Métis claim had been violated by lands reserved for the HBC, by private sales, and by Military Bounty Grants and homesteads (Ens 2006, Figure 5, at 39).<sup>16</sup> It is a wonder how, in the face of all this evidence, Ens can stick to assessing the behaviour of the lieutenant governors, as if that were the issue of importance. Take, for example, the following quotation:

Given the overlapping claims of the various parishes, the complications introduced by the Order in Council of May 26, 1871 that for a time allowed immigrants to make entries prior to survey, the instructions that Archibald and Morris were not to grant any parish more than a fair average of woodlands, and the fact that Archibald and Morris were working with rough and often inaccurate numbers of Metis eligible for the land grant, it is apparent that both lieutenant governors were faced with a very difficult task. The documentary evidence certainly indicates that both Archibald and Morris took their duties in allocating this grant very seriously, and that both *tried* to administer it as fairly as possible. (Ens 2006, 48–49; emphasis added)

It should be obvious here that attempts at fairness do not equate to actual fairness. Further, attempts by individual governmental officials do not characterize the entirety of government action. Any violations that are seen in government policy can be eliminated from consideration by directing the reader's focus (and sympathies) toward the *efforts* and difficulties suffered by individual government officials. If one focuses on the targeted beneficiaries, these events take on a very different meaning. Indeed, even a subtler change in focus to "the government" as a whole would change the importance of such declarations or negate their utility altogether. But now we are merging into another area of concern: how to assess individual actions in our construction of history.

### *III. Individuals as the Unit of Measure*

The assertion that individuals are more "real" than society is nothing other than an expression of the fact that the people who hold this view believe individuals to be more *important*, and the association they form, the society, less important. (Elias 1991, 12)

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<sup>16</sup> In reviewing Ens's map of the "Final Disposition of Twps 11 & 12 Rge 2E," one can see a multitude of ways in which the St. James Métis had their claim violated.



Flanagan describes his historical work as “highly detailed” (2000, 3-4). This does not necessarily mean that the work is *thorough*. Rather, Flanagan’s research is as highly selective as it is detailed, and it is framed in a completely inappropriate level of analysis. For Flanagan, the heart of the matter rests squarely in the actions and motivations of individuals. As long as individuals were all provided with the same, or similar, access to the market, it is assumed that they were treated fairly. Flanagan supports this analysis through studies tracking the price the Métis sold their lands for and comparing that price to the normal values in the market of the day.<sup>17</sup> The assumptions behind the work are threefold: that if the individuals were treated fairly, then so too was the collective (or that there is no differentiation between the individual interests and the collective); that the method chosen by the Crown to meet its *Manitoba Act* obligations was fair; and that if the Crown tried to meet its obligations to the Métis, then any infringement upon those obligations was minor.

The limitation of Flanagan’s perspective is evident in his isolated mathematical analysis of the federal government’s land grants. Flanagan calculates the amount of individual scrip that was distributed. When he discovers that more than the guaranteed 1.4 million acres were distributed, Flanagan comes to the conclusion that the government overfulfilled its obligations (1991, 125). The possibility that the federal government fulfilled obligations that it did not have (i.e. giving unencumbered individual titles to land) and entirely failed to fulfill obligations that it did have (i.e. giving the Métis community land) does not enter into Flanagan’s analysis, because he does not look very critically upon government actions. This all goes back to the unjustified use of the individual as the key unit of measure.

Similarly, Ens tracks Métis individuals in order to find patterns of persistence and economy; he extrapolates these patterns without measuring the impact of the provisions of the *Manitoba Act*. From this, one must ask, if we assume that some individuals left Red River due to personal economic decisions rather than racism, or rather than the failings of the Canadian government to honour the promises in the *Manitoba Act*, what does this have to do with securing a Métis land base in Manitoba? The answer is that it has nothing to do with that. If fifty percent of the individuals who once comprised a collective leave to pursue individual interests, this does nothing to the interests of the collective. Ditto with sixty percent, seventy-five percent, or ninety percent. If, after the *Manitoba Act* was passed, ninety percent of the Métis journeyed over the Rockies, boarded a boat, sailed to China, and never returned, the Métis collective would still have been entitled to 1.4 million acres for their children to be distributed for the benefit of their families. The collective interest is undermined only by collective consensus, not by individual decisions. And when my children move out of our house, they are sure as heck not taking some of the roof and walls with them!

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17 Flanagan 1991, 122–27, with charts on 122 and 123. Note that this data is aggregated. However, that does not stop Flanagan from relying on individual examples to understand group behaviour. For example, Flanagan summarizes one instance where a sale of land was described in court and then explains that that “testimony also gives insight into the Metis’ degree of understanding of business and legal practices” (117). He later describes some of the limitations on understanding taken from this example, but limits his phrasing to that individual case only, rather than to “the Metis.”



*III.a) Methodological Individualism as an Interpretive Strategy*

Flanagan breaks down the Métis land beneficiaries individual by individual in an attempt to show that they did in fact receive their land. By reducing the collective interest to individuals, Flanagan can argue that *individuals* made choices with their *individual* title and, since we hold individual liberties in high esteem, we must honour those decisions and not demand redress for the fact that the Métis do not have a land base today.<sup>18</sup> Indeed, how can redress be made for something that can be shown to have been the *choice* of the individual Métis who sold their land? To illustrate how this line of reasoning is faulty, we must explore Flanagan's framework (methodological individualism) in more detail.

I will start by giving the reader a sense of what is meant by Methodological Individualism:

In the language of contemporary philosophy, this emphasis on individuals and their acts as units of analysis has been called "methodological individualism" as against "holism" ... proponents of methodological individualism maintain that social processes and events should be explained by being deduced, in principle at least, from statements describing the behaviour of participating individuals. (Kim 1965, 316)<sup>19</sup>

The characterization in this quotation helps capture the approach used by Flanagan. The failure in the logic of his approach should be obvious. Indeed, I opened this section with an insight from Norbert Elias reflecting the reality that the decision to focus on individuals is a choice. But the freedom of this choice is revealed more clearly by borrowing a quotation from Roland Chrisjohn, Sherri Young, and Michael Maraun:

The first question that arises is, why stop? Methodological Individualism [MI] legislates that the "right place" to stop in our investigation, our "explanatory bedrock," is when we run into "what individuals think, choose, and do," but why put the stop-sign there? Can we not, in principle, develop an account of "thinking" in terms of brain chemicals, blood flows, and the like? And is that account not itself reducible (again, "in principle") to the behaviour of atoms? Can we not break atoms themselves down further?

We can go [in] the other direction, too. We have a world with many societies, and our world is only one in this solar system, which is only one in this galaxy, and there are "billions and billions" of galaxies ...

The stipulation of MI to stop at what individuals think, choose, and do is a **preference**, and not some kind of scientific principle. (2006, 109–110)

Methodological individualism is a method of analysis that is crafted to help researchers

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<sup>18</sup> Flanagan describes the alternative as degrading to "the dignity of individual Metis human beings" (1991, 232).

<sup>19</sup> For perhaps the most thorough undertaking of the topic of methodological individualism, see Bhargava (2008).

look at the world in a particular way. Considered in abstract, this approach is neither correct nor incorrect. However, it becomes appropriate or inappropriate depending on the context in which it is applied. Rather than getting to the essence of the matter here by focusing on individuals in the context of group interests, the methodological individualist, by either plan or default, actually completely disregards any existing group interest.

### *III.b) Methodological Individualism in Practice*

Incorporating an assessment of individuals' behaviour can be part of the work of a historian because the role of individuals is important for any historical inquiry. However, it is not to be the only, or even the primary, consideration. This was explained by E. H. Carr, who noted that individual action is relational to other social forces: "What the historian is called on to investigate is what lies behind the act; and to this the conscious thought or motive of the individual actor may be quite irrelevant" (Carr 1961, 52). It is this relational aspect between individual action and social forces that is missing from the emphasis on individual efforts or intentions in the standard discourse. Indeed, Flanagan is more inclined to ignore the impact of social constructs because it lacks real, conscious intent. He states that "all such attempts to explain events at the macro level as the consequences of conscious intent ignore the effect of conscious intent at the micro level *where it really existed, that is, among the Metis who made individual decisions whether to sell or keep their land grants*" (1991, 232; emphasis added). So even while Flanagan might pull his individual analysis back into a group through charts and data, the explanation of those trends is to be found at what he terms the "micro" rather than the "macro" level.

Consider how deep this problem of methodological individualism can run. D. N. Sprague wrote a review of Flanagan's work in which he was critical of Flanagan's lack of justification for the conclusions he provided. Sprague wrote:

In Flanagan's view, Canada's recognition of the supposed purchaser of riverlots was equivalent to recognizing the original occupants, and Manitoba's legislation concerning "half-breed lands" was "beneficial" to the nominal recipients of children's allotments. To make such a case even minimally plausible, Flanagan must show that the sales of Métis lands were genuine contracts between consenting parties competent to enter into such agreements, and that there were reasonable returns for the vendors. (1992, 263)

While he is critical of the lack of consideration that Flanagan gave to counter evidence, Sprague takes Flanagan's norms and runs with them. He merely asks Flanagan to provide more evidence rather than justify his underlying *assumptions*. I would submit that Flanagan has to do more than that. He needs to show that these lands were *ever* supposed to have been made available for sale by individuals. Individual allotment does not necessarily equate to an individual's capacity to sell an individual share of a community interest to those outside of the community. Even if the sales took place in a fair market, it remains to be shown that they were supposed to have taken place at all, because they may have been limited by

a community interest. Despite this, reliance upon official government records and policy allows the modern historian (or legal counsel) to simply assume that individual allotments was the correct way to proceed.<sup>20</sup>

Flanagan's preference for individual agency plays out in how he views Riel's contribution to the Northwest Resistance of 1885. Flanagan explains that "[t]he historical record is clear"; I would say that the historical record is clearly biased in a way that reflects colonial society, its norms, values, institutions, and judgments, and that these are features that Flanagan adopts into his own work without critique. The quotation on Riel goes on to assert "that he provoked the North-West Rebellion of 1885 for his own purposes" (Flanagan and Ens 1998; Flanagan 1998, 12). Those purposes, according to Flanagan, were purely selfish—and one might be excused for wondering whether Flanagan has a point here, since Riel's personality seemed at times to be both volatile and self-indulgent. But Flanagan does not address the fact that Riel was in the United States when he was sent for by the Métis of the North West. The Métis went to get him. What was it about Riel that they desired? The focus on Riel's personality quirks or personal greed are merely a reflection of Flanagan's behaviouralist approach to political history. This approach is a tangent of methodological individualism, and can be understood as follows:

Behaviouralism in political science thus seems to be a political application of a much broader principle in the social sciences which denies the ontological reality of social entities larger than (physically identifiable) individual persons. This, however, may be too strong a statement. Most of the political behaviouralists may not have thought out the logical implications of their adoption of individuals as the only legitimate units of analysis. If political behaviouralism is unambiguously committed to the kind of methodological individualism suggested above, what happens, for instance, to the status of the group in the so-called interest group theories? ... *[T]he behavioural emphasis on individuals is merely a recommendation of a particular strategy in political research.* (Kim 1965, 316; emphasis added)

So we can see that Flanagan takes a *preference* and applies it as though there were no alternative. Flanagan's work would be much more convincing if he clearly set out his perspective and the limitations thereof. Instead, he concludes his well-known book with the bold statement that its purpose was to clarify "the historical record" (1991, 232). And Flanagan has sought to maintain a particular type of clarity regarding Métis history and how Louis Riel is understood within it. Thus, Flanagan was once critical of Preston Manning for saying "that Louis Riel is a bridge-builder" (Flanagan 1998), because Flanagan saw this as a distortion of history that could ultimately prove a burden to taxpayers (Flanagan 1998).<sup>21</sup>

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<sup>20</sup> See also Attorney-General, "Factum of the Respondent," *MMF v. Canada and Manitoba*, Supreme Court of Canada (2011).

<sup>21</sup> Here he writes, "The manipulation of Riel's image raises important contemporary considerations. Canada faces hundreds of aboriginal land claims. Most of these are Indian claims, but Metis leaders are also launching their own cases. Such claims depend crucially on exact reconstruction of history. To ignore the historical record in an attempt to rehabilitate Louis Riel will set a precedent for these claims that will prove costly for Canadian taxpayers."

It is no wonder that Flanagan opts for historical interpretation that regurgitates the racial bias of previous writers and assumes that all government action is benevolent (or on its way to being benevolent) (Flanagan 1998).<sup>22</sup> As stated above, Flanagan's preferred method is to individualize the actions of the Métis. When assessing the resistance, it is focused on Riel. When assessing the scrip process, it is all about the choices made by individual Métis to sell their lands. In contrast, Ottawa and Canada are the preferred terms for describing those forces that create the conditions under which Métis individuals have to react. There is never any determinative weight attached to the choices made by government (for a government is not an individual and does not carry such responsibility, and does not act in the world, but for the individuals who act within that government). To the extent that he does critique those actions, it is by way of reference to the *intentions* of individual actors.

Ens uses maps to help argue that the Métis received their lands in the areas they wanted, yet he does not question that these lands were to be distributed as individual lots of private alienable property. Much of the evidence in Ens's work would seem to lead to the understanding that these land grants were to be collective grants. For example, he starts by looking at Lieutenant Governor Archibald's understanding in December 1870 that the Métis wished to locate their own land grant. Why did they want this? If all they wanted was a fair opportunity in the market, then all they needed was a grant *anywhere*. The prime locations were already taken up by the settlers' grant. Virtually the entire river way was going to be claimed by Métis and non-Aboriginal settlers who had a preexisting claim through an HBC grant or had rights as squatters. Archibald recognized that the Métis wanted to maintain their separate communities. As Ens summarizes, "[Archibald] noted that the English and Protestant parishes, and the French and Catholic parishes, wished to keep this division in the allocation of lands" (2006, 22). This is equally evident in the way in which the Métis made their choices of lands. Ens's research reveals that the Métis grants were to be contiguous blocks of land chosen by the *community* to benefit the *community* (2006, 24).<sup>23</sup> Individuals were not making their own selections. Indeed, a "Parish of Half-

22 Here he writes, "True, the Metis of the Saskatchewan Valley had grievances involving river lots and land scrip, but Ottawa was well on its way to dealing with these."

23 See generally Ens 2006, 24, specifically footnote 42. In the same source, Ens cites the Lieutenant Governor acknowledging in 1871 that parishes were making land selections. Ens also recognized that Métis communities were seeking land for the *community* when he writes:

The contingent nature of Metis ethnicity is illustrated by those Red River Metis who returned from Montana after the buffalo disappeared in the late 1870s and early 1880s, and congregated at Turtle Mountain in northern North Dakota. They returned because they believed they could acquire land from the American government during the treaty negotiations with the Ojibwa of that region. The American government, however, did not legally recognize the Metis and so they redefined themselves as the Turtle Mountain Chippewa (Ojibwa), entered treaty and obtained a reservation in the Turtle Mountains ... This type of instrumental ethnicity and identity was much more common than is usually recognized. (2001, 163-64)

Ens is confirming for us that Métis *communities* preferred treaties elsewhere and were willing to do what was necessary to obtain one. Finally, see Ens: "Metis leaders hoped that the Red River Settlement could remain a Metis homeland. This required political cooperation, the maintenance of the Metis land base, and a rapid adaptation to an agricultural economy" (1996, 139).

breeds, or any body of Half-breeds” would make the selection as a *community*. With all this evidence, one might wonder how these authors are able to find their way to the sale of individual allotments.

If we are going to use the assumptions that the Métis knew the workings of the free market and had experience in engaging with it, why would they not have simply asked for money in the negotiations? Surely they would have been aware that different lands would be worth differing amounts on the open market. How could negotiators justly argue that some of their members were entitled to greater gain than others? They couldn't. So they asked for land, which would have an equal value to all since it was a community interest designed to “benefit families.” And because they asked for land rather than money, it is more logical to assume that they did *not* want to partake of the open market. These were Métis lands, they were not settler lands. It is extremely difficult to accept the market as the great equalizer when the standard discourse fails to justify its existence in the first place.<sup>24</sup>

Despite the abundance of evidence that points to a contrary level of analysis, the standard discourse is still firmly based in a methodological individualism approach, an approach that also leads to behaviouralist explanations. The approach is neither justified by nor correspondent to the problems at hand.<sup>25</sup> While methodological individualism has been characterized as a preference, our preferences have to be reasoned and responsive to the context. Because methodological individualism is not responsive to the Manitoba Métis land grant, the discourses that are based on this methodology must be rejected.

#### *IV. Undermining of Aboriginal Cultures*

Since Flanagan directly reveals his views on Aboriginal cultures in only some of his work, and avoids the topic in his work for the Department of Justice, I need to bring up the possibility that some of the issues outlined above could be a reflection of Flanagan's well-developed inclination to undermine Aboriginal cultures. While he used the strategy of taking historical records at face value, giving virtually no interpretive weight to accounts

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24 For a distinctly Métis interpretation of the context of the *Manitoba Act* land scheme see, Chartrand (1991).

25 Further examples can be found at Ens (1996, 149), where he writes of the role of the Métis politicians in the Provincial Legislature: “Their policies at this time were aimed at ensuring survival as a group, and of effecting a moderate transition into a new economic and social order.” And at 161: “Land grants to Metis children and Metis heads of family were also main points in the negotiations leading up to the Manitoba Act. The Metis realized that the land question involved nothing less than their stake in the new province. As Le Metis editorialized, ‘Nous revenons encore sur cette question c’est la question du jour, question brulante et délicate. Pour le Metis, c’est leur patrimoine et celui de leurs enfants.’” See also footnote 54; Ens explains that the priest of St. Francois Xavier “complained that while the Metis of his parish had designated the lands promised them in the Manitoba Act, this had scarcely stopped the Orangemen from Ontario from occupying the same land ... While these land issues also created problems for the English Metis of St Andrew’s, the language and religion they shared with the newcomers made the issue of contiguous reserves less important, and the conflict over land less bitter.”



from the period, and not critiquing government action in his litigation-based work<sup>26</sup> (and these reasons might be enough to worry about the thoroughness of his assessments), Flanagan has produced other writing that reveals a deeply rooted skepticism about the worth of Aboriginal cultures. For example, his book reviews help give some insight into his broader frame of reference. Take, for instance, Flanagan's belief that Aboriginal cultures should be left to die:

Cultures cannot be revived and maintained under conditions radically different from those for which they evolved and were suited. Society is not a museum ... [Indians] are not one people, but many, and their traditional cultures, which were not codified in literary traditions, were adapted to stone-age levels of technology. Under these conditions, their survival as cultural nations is more likely to resemble the Gypsies rather than the Jews—a sad existence on society's margin, trapped in a morass of social pathologies ... Prof. Boldt's heroic defence of culture survival notwithstanding, I am more than ever convinced that assimilation is the only realistic option for Canadian Indians. (1994, 42)

For Flanagan, the answer for Aboriginal people is not only assimilation, but promoting individualism, because “the problems of the underclass ... are essentially problems of the human spirit” (1994, 42). Here he argued that targeted programs to ameliorate these problems actually exacerbated the problem for black Americans, and they “have had precisely the same effect on our aboriginal people” (1993, 42). Since Flanagan acknowledges that the trend to sympathize with the underclass and provide them some sort of helping hand emerged in the 1960s, one has to wonder what led to the social conditions that would have tied Canada's Aboriginal people to the underclass prior to 1960.<sup>27</sup>

Even when Flanagan has no reason to include Aboriginal peoples in his reviews, he finds a way to do so. And it is a lack of understanding of the differences between the black and Aboriginal experiences that really undermines Flanagan's message. However, perhaps because Flanagan sees the solution as the same for both groups of peoples, he does not bother to explain those differences to his readers. Here is another such example:

[T]he dogma of cultural racism undermined the teaching of people like Booker T. Washington that blacks must lift themselves up. The present “culture” of the black underclass (70% of children illegitimate; one third of young men in jail or on parole; rampant alcoholism and drug addiction) needs condemnation and reformation, not sympathetic understanding from relativist liberals. Whatever the role of white racism in the remote origins of this destructive way of life, it is now self-perpetuating.

26 See D. N. Sprague (2001, 137–38) for a similar criticism of another work, which indicates that Flanagan's approach to lack of critical awareness in historical analysis is not unique: “If these essays provide a fair sample of the current range and depth of these branches of western Canadian studies, the inescapable conclusion is that the field tends towards excessive detail, avoidance of theory, and an anti-critical bias with respect to any and all institutions of the economy and state.”

27 See L.F.S. Upton (1985) for some insight into the destitution of the Indians (First Nations) of the time.



Whites are involved only in that they fund it through welfare payments and try to contain it through policing. Otherwise they try to avoid it as much as possible ... Thus white racism, which once kept blacks in bondage, now serves as an excuse for blacks to keep themselves in degradation ... [This book] will also help Canadians to understand the very similar problems of our large and growing native underclass, which is also impeded by cultural relativism from reforming itself. (1995, 42)

For Flanagan, cultural relativism is one of the great evils because it obscures what he would present as a clear hierarchy between cultures: “[C]ivilization as explained here is an objectively definable way of life, and societies that adopt it obtain a demonstrable increase in power over nature and over uncivilized societies” (1995, 46). Flanagan might as well have added, “And therefore, civilized societies can act like brutes and steal other people’s stuff.” The fact that he didn’t add this is likely explained by his unwillingness to see that taking Aboriginal lands is either stealing or brutish. Indeed, in Flanagan’s conception of the world, as we will see, taking of land is part of the march of civilization. It is this background that might explain Flanagan’s preference for methods that focus on individual transactions and motivations; this helps position Aboriginal peoples as existing within the colonial state rather than in collective opposition to it. Individualizing the Aboriginal subject helps Flanagan avoid critique of the state, because the state is portrayed as doing good by advancing civilization.

Flanagan has presented a justification for the taking of Aboriginal lands, and he even tries to implicate Louis Riel in his schema, noting that “[i]nterestingly, Louis Riel, the great Canadian symbol of aboriginal resistance, recognized the force of the argument developed by Locke and Vattel” (Flanagan 2000, 43), which is the argument that Flanagan ultimately adopts. He goes on to quote Riel from his trial for treason in 1885 as follows:

[C]ivilization has the means of improving life that Indians or half-breeds have not. So when they come in our savage country, in our uncultivated land, they come and help us with their civilization, but we helped them with our lands, so the question comes: Your land, you Cree or half-breed, your land is worth to-day one-seventh of what it will be when civilization will have opened it? Your country unopened is worth to you only one-seventh of what it will be when opened. I think it is a fair share to acknowledge the genius of civilization to such an extent as to give, when I have seven pairs of socks, six, to keep one. (Louis Riel, address the court, 1 August 1885, in Stanley et al., *Collected Writings of Louis Riel*, vol. 3, 548, cited in Flanagan 2000, 43)

Equally interesting is that Flanagan selectively uses this argument to support his defence of “civilization” rather than the call that is most relevant to the “half-breeds”: one-seventh of the land.

Flanagan does not defend the institution of private property or, more specifically, fee simple-style land grants or land scrip to any great extent because the benefit is so self-evident that it needs no defence. For Flanagan, the justifications that accompanied the expansion of British colonies in the Americas are still a sufficient justification for the

imposition of “civilization” on Aboriginal peoples. Specifically, he incorporates civilization and agriculture in a two-headed beast at the pinnacle of human achievement. As such, it would be illogical to reject it. There is no right or wrong in such a world, where social Darwinism is in full force: “Both of these processes are so prominent in human history that it seems almost beside the point to raise questions about morality. It is like asking whether it is right or wrong that childbirth is painful, or that everyone eventually has to die, or that floods and droughts occur” (Flanagan 2000, 39). Therefore, Flanagan sees agriculturalists as rightfully dispossessing hunter-gatherers of their excess lands (with or without a state apparatus, but it helps if they have a state):

Let me put this argument in the simplest terms. Initially, all people, whether hunters or farmers, have an equal right to support themselves from the bounty of the earth. But the hunting mode of life takes up a lot of land, while agriculture, being more productive, causes population to grow and leads to civilization. As their numbers increase, civilized peoples have a right to cultivate the additional land necessary for their support. If the hunters deny them that opportunity by keeping their hunting grounds as a game preserve, they impede the equal access of the farmers to the bounty of the earth. (Flanagan 2000, 42–43)

This logic is about as solid as air. Being more productive may be a good thing. Let us assume that it is (although in the sense of population growth, this would need to be justified). All that being more productive means is that a person or people may be wealthier, in some sense than their neighbours who use a different means of production. Perhaps one’s people grow taller and stronger because they have a better diet, or, as Flanagan indicates above, populations increase. Why does this justify taking another people’s land? How far into the minutiae of human behaviour do we go? If my neighbour and I both farm and he uses genetically modified crops that grow twenty-five percent taller and produce better crop yield per acre, does he have the right to use *my* land for his crops? Or do I have to start using genetically modified crops on my land? After all, my neighbour has made use of a significant advancement. What if neighbouring nations have the same problem? One nation uses GMO and the other nation bans its use. I assume here that Flanagan would uphold the right of the nation to self-determination, rather than justify the invasion of one nation by another. Yet perhaps nationhood is an artificial barrier anyway. If a country has a way of life that is so prosperous that it has grown populations that it can no longer support, should that country (according to Flanagan’s principles) not have the right to invade the lands of another, presumably less-advanced country? Is there a point at which we say, “You have enough; be thankful for it. Don’t take other people’s stuff”?

Perhaps it is because Flanagan does not see Aboriginal peoples as comprising “nations” that he can allow such an exception to arise. Indeed, Flanagan writes:

It is wrong for the hunters to insist on maintaining their way of life; rather, they should adopt agriculture and civilization, which would actually make them better off while allowing more people to live. The farmers are justified in taking land from

the hunters and defending it as long as they make the arts of civilization available to the hunters. (Flanagan 2000, 42–43)<sup>28</sup>

After a great deal of focus on the agricultural way of life, Flanagan admits that agriculture is not really the issue. Instead, he explains that “[t]he contest is really between civilization and savagery, not between agriculture and hunting” (2000, 42). This is an odd turn, considering how much time he has spent justifying the imposition of agriculturalists upon hunter-gatherers.

Flanagan provides his readers with more explanation of what he means by “civilization.” Flanagan lists the following essential characteristics thereof:

- Intensive agriculture
- Urbanization
- Division of labour among cultivators, craftsmen, merchants, soldiers, rulers, and priests
- Intellectual advances such as record-keeping, writing, and astronomy
- Advanced technology
- Formalized, hierarchical government—that is, a state. (Flanagan 2000, 33)

As noted above, Flanagan calls these criteria “objective.” This is odd, because every one of these criteria is actually entirely *subjective*. It was Flanagan who created, or chose to adopt, each of these criteria within this definition, based on his own judgement. After doing so, Flanagan does not justify why any of this is better than so-called “savagery.” He does not explain how he knows that civilization is a step forward in any society’s human development, or why all of the listed criteria are necessary components of that way of life. For example, why do we need division of labour? That has not worked out well for the marginalized classes. “The collective advance of civilization” has not ensured, as Flanagan indicates, that “superior resources” are placed “in the hands of the individual” (Flanagan 2000, 34). He must be talking about the exploiters of lands and the accumulators of wealth, which stand in stark contrast to resources that reside in the hands of colonized peoples the world over (see, generally, McMurtry 1999). Flanagan recognizes that some people might have a problem with this idea:

Fencing and plowing the woodlands and prairies will inevitably reduce the quantity of game and inhibit the hunters’ access to whatever does survive. So the claim that there is surplus land is valid only from the agricultural, civilized point of view, and I can see no moral justification for telling the hunters that they must give up one way of life and adopt another. On the other hand, I cannot see a moral justification for telling the agriculturalists that they cannot make use of land that, from their point of view, is not being used. (Flanagan 2000, 44)

I have one justification for stopping the agriculturalists from stealing the hunters’ land: it belongs to the hunters! I even have an alternative suggestion: the agriculturalists should count the blessings of their profoundly advanced society and not steal other people’s lands simply because they cannot find a way to maintain their obscenely large populations.

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<sup>28</sup> For more on how this line of thinking has been employed to take, or justify the taking of, Aboriginal lands, see Hagan (1980). Also see Flanagan (1989) and Griffin (1989).

It is important that we see Flanagan's civilization argument for what it is: an arbitrary value system. This description of ideology helps make this point:

We take ideology, broadly, as an accumulation of doctrines, beliefs, or opinions that guides a group of people or constitutes the group's organizing principles. An ideology is **arbitrary**, in that proofs of correctness of an ideology, however frequently attempted, are without force: an ideology is simply the way **this** group chooses to see things, do things, and talk about things. Ideology is a source of conflict, because groups often treat their beliefs as beyond question; to challenge another group's ideology is to challenge the group itself. However, ideology is not merely reactive. Masquerading as fact, it often provides the pretext for behaving in an oppressive or dismissive manner, particularly when there is a power disparity between groups holding different ideologies. (Chrisjohn, Young, and Maraun 2006, 107; emphasis in original)

Flanagan's lack of recognition of the arbitrary nature of his argument results in circular reasoning. We know that civilization is better because it dominates people and it dominates people because it is better. But the question remains: Why those criteria? Why not talk about the vast disparity in wealth, or the oppression of certain classes of people by those elites who have economic interests, or the abuses of power that seem to be inherent in hierarchical government? Exploring any such questions would require Flanagan to justify his position—something that he seems unwilling to do.

When Flanagan turns to the Métis, we can see that he is equally dismissive of community interest, the value of different cultures, and governance structures. Indeed, since these things are clearly better with civilization (as opposed to "savagery"), Flanagan opts just to accept the advance of civilization and move straight to the market economy (1998, 104).<sup>29</sup> Michael Parenti has written a critique about other scholars, but it applies here as well:

For a group of social scientists, including Ernest Van den Haag, Nathan Glazer, and Stanley Rothman, who believe that capitalism is the finest economic system ever devised, the continued opposition to it from intellectuals and others defies logic. Such hostility, they reason, can be understood only by putting aside economic arguments and concentrating on the psychological disturbances of the anticapitalist critics: the "emotional and irrational causes" that leave consumers frightened by the very freedom the free market breeds, the guilt feelings some have about their good life, the envy that others feel toward the more affluent, and so forth. (1999, 243)<sup>30</sup>

<sup>29</sup> Here he examines the virtues of land speculation: "The much-maligned speculators were in fact benefactors of the community. Hard as it may be to believe today, the policies of the Dominion government had created a land lock in this new province on the boundless prairie ... Speculation in scrip, and later in children's allotments, introduced an element of flexibility into this rigid, bureaucratic system." For a look at social Darwinism in the legal history of Aboriginal title, see McNeil (1999).

<sup>30</sup> At 265, Parenti explains the dilemma of how to assess the impact of leaders upon historical movements: "But it is one thing to say that personality may affect political reality—who can deny the impact of a Lenin or a Gandhi?—and quite something else to argue that political actors, both leaders and masses, are really displacing upon the manifest content of political life their unresolved hidden psychological agendas. It is this latter assertion that I take to task without wishing to dismiss in toto the role of psychological factors in the timing, formulation, and expression of political actions."

This helps explain why Flanagan focuses, for example, on Louis Riel's individual mental failings rather than viewing Riel (the identified leader) as merely the head of a larger beast of social unrest (the rest of the society that empowered the movement). Focusing on the former means that he can exclude the latter entirely; if not for the head, the unrest in the broader society would have no character. However, other researchers might point out that the body of the beast was suffering from disease or injury, and the head responded in a logical attempt to save itself (Parenti 1999, 265).<sup>31</sup> Now, one might say that Flanagan does acknowledge the body of the beast by his systematic coverage of the section 31 land grant. However, here too he is focused on individual psychological and economic explanations to see the broader context that might influence the rational choices of these individuals to sell their land. One could say that this was a problem with bias, since Flanagan's research was commissioned by the Canadian government of the time to defend itself from the indefensible. However, I think that this type of argument of bias has little relevance to the argument itself. Instead, we must be prepared to view Flanagan's research as seriously flawed in its underlying values so that we can dismiss it fairly. For it merely serves to illustrate the end game of colonial ideology.

#### *V. Conclusion: Convoluted History and Misrepresented Issues*

I recognize that you do not have to be a historian to *do* history (although it might help). As a result, I have not criticized Flanagan's history on the grounds that he was trained as a political scientist. Indeed, let us consider what it means to be a historian: "History is, in short, a problem-solving discipline. A historian is someone (anyone) who asks an open-ended question about past events and answers it with selected facts which are arranged in the form of an explanatory paradigm" (Fischer 1970, xv). This paradigm may be crafted in a variety of ways, but "[a]lways, it is articulated in the form of a reasoned argument" (Fischer 1970, xv). I take two points from this definition. One, the standard discourse of Métis dispossession isolates "facts" rather than incorporating them into a broader discursive. And two, as a consequence of the first, it does not ask open-ended questions. Instead, as argued above, the standard discourse poses questions that are limited, and, as a logical consequence, so too are the reasoning and conclusions.

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31 A reviewer of this article misread this beast metaphor as being a reflection of the *Métis* in particular, rather than social unrest in general, commenting that such references perpetuate "the worse sorts of stereotypes of the Métis as unruly half-savages to portray their provisional government in this way, especially when it was based on the bison hunt formation, an organization that contemporaneous commentators admired for its orderliness and efficacy." It should be noted that I do not refer to the provisional government here, nor did I refer to the provisional government in my draft. Even if I did reference the provisional government here, this sort of hair-trigger sensitivity to a metaphor, rather than a direct characterization, is simply a misreading of the work. The reviewer's reaction seems to portray the Métis resistance as not being an example of social unrest, when in fact there were several layers of it at the time in Red River. Sprague (1988) and Stanley (1961) are both helpful in this regard. It should also be noted that I used a similar expression above where I described a "two-headed beast at the pinnacle of human achievement." The same reviewer did not find that expression offensive to the "civilized" or agriculturalists to which it was applied.



It would seem therefore that the standard discourse is at risk of suffering from another fallacy, that of the declarative question: “If a historian goes to his sources with a simple affirmative proposition that ‘X was the case,’ then he is predisposed to prove it. He will probably be able to find ‘evidence’ sufficient to illustrate his expectations, if not actually to sustain them” (Fischer 1970, 24).<sup>32</sup> This might help explain why Flanagan never ventures into an examination of the real nature of the *Manitoba Act* (although, he does make some assertions/assumptions). Was it only a piece of federal legislation? If so, what is the significance of the ratification of the Act by the Métis? Was it an agreement? Was it a treaty? If so, what were the terms? Are the terms exactly as they are written, or is there a context that can provide us with a deeper understanding? What is the significance of the Métis actions immediately following the transfer?<sup>33</sup>

The issue of open-ended questions arises in Ens’s research as well. Ens’s work gives us an example of an inappropriate question guiding analysis: “In 1990 Thomas Flanagan and I researched and wrote a study that attempted to answer two questions: first, whether the federal government granted the Metis of Manitoba the various benefits of land and scrip to which they were entitled under the Manitoba Act, and second, if the Metis received these benefits, what did they do with them?” (Ens 2006, 49). This question is wrong. How can a *question* be wrong? In this case, the question is wrong as the basis for analysis of this topic because it presupposes the validity of a relationship between Métis land entitlement and scrip. Can I understand the nature of tree growth if I assume that squirrels belong to the class “tree”? Squirrels spend a lot of time on, in, and around trees. But including the squirrel as part of the tree itself will, at the very least, muddy the results. Similarly, can Flanagan and Ens understand the resolution of the *Manitoba Act* obligations if they do not first examine the nature of the benefits that were actually supposed to be granted? Specifically, where in the *Manitoba Act* does it state that the Métis were supposed to receive scrip? Nowhere. Therefore, even by the most literalist interpretation of the Act, the issuing of scrip is not best seen as a fulfillment of the terms. It is more accurately characterized as a changing of the terms. Even if scrip is seen as an expression of the prerogative of government, a researcher should take the time to ask whether that issuing is a proper expression consistent with the wishes of the parties. As well, in relation to what the Métis did with their benefits, the first questions should be, “What was the nature of the benefits, and what were they entitled to do with their benefits?” These benefits may have come with a corresponding duty. They may have been limited by the community interest. It is perfectly feasible that the Métis, as individuals, were entitled to do very little with their individual lots. As with the choice of frame of reference, the

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32 Also of relevance here is the pragmatic fallacy: “The *pragmatic fallacy* selects useful facts—immediately and directly useful facts—in the service of a social cause. Most historians hope that their work is, or will be, useful to somebody, somewhere, someday ... [The pragmatic fallacy] consists in the attempt to combine scholarly monographs and social manifestoes in a single operation. The result is double trouble: distorted monographs and dull manifestoes” (Fischer 1970, 82; emphasis in text).

33 Some of these questions can be answered in particular legal contexts too. For an argument that the *Manitoba Act* embodied a “treaty,” see especially Chartrand (1991) and Vermette (2012).



posing of the question can be critically important to establishing what “facts” are important, and which explanatory paradigm is used when interpreting those facts.

Individual intention is interesting here, especially as it might be observable, or not, in historical documentation. Did the Métis intend to sell their land? On one hand, it is clear that, in the absence of outright fraud, many individuals did intend to sell their land. However, this does not mean that the sales were legitimate, or that the “loss” of a Métis land base was the responsibility of the Métis. This is where Sprague is useful. Indeed, the very last sentence of his book captures the conflict between him and Flanagan:

The presumption of benevolence is not appropriately replaced by one of consistent malevolence, but the exodus of the Métis from their original homeland and their difficulties in resettlement is more explicable by processes of formal and informal discouragement emanating from Canada than by the alleged preference of the Métis for the wandering life of homeless hunters. (Sprague 1988, 184)

The “presumption of benevolence” is, no doubt, a dig at Flanagan’s research which, as pointed out earlier, tends to default towards apologist interpretations of government wrongdoings.<sup>34</sup> While Sprague cautions against merely swapping the presumption of benevolence with one of consistent malevolence, I am not sure why this intentional argument is relevant to the Métis. If I am walking down the street and get hit in the face with someone’s flailing arm, and the perpetrator bounds off before I can do anything about it, does it matter *to me* whether I was hit by an intentional punch or merely careless dance choreography? In both cases the impact upon me is the same. If we focus on the wounded, there is no need for intention to play any role whatsoever, because the answer to the question “Did you get hit in the face?” will be “yes” in both instances. Once the injury is revealed, neither the dancer nor the deliberate attacker can find justification for the continuation of such action.

While intention can provide some historical insight, examining intention is *not enough* to reach a conclusion on the *impact* of direct action, inaction, blundering, bureaucratic delay, poor policy decisions, or illegalities. Still, these are the ascertainable “facts”: “The secure foundations of deductive and inductive logic have been battered to pieces by the *ascertainable* facts, so that we really have no choice; we must cling to the *ascertainable* facts though they slay us” (Becker 1932, 25–26, cited in Fischer 1970, x; emphasis added). Regardless of the abuses done to the broader context, the Métis perspective, and the logical meaning of the *Manitoba Act*, Flanagan clings only to the ascertainable facts that he thinks

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<sup>34</sup> Sprague has also criticized Flanagan for errors in chronology:

Flanagan’s use of previously cited documents illustrates other important errors, one of which is misplaced chronology. For example, he argues that even if a few occupants of riverlots were overlooked by surveyors, the lack of recorded improvements was no barrier to establishing a claim in the 1870s ... The proof is a Justice Department opinion dated 18 May 1883, rather than the rulings of the 1870s. Chronology is key because by 1883 the Métis dispersal was complete. With the dissolution of the potential Métis enclave in southern Manitoba, claims routinely barred or stalled in the 1870s became acceptable in the 1880s. (Sprague 1992, 262)

are important (and that are available in the records). Though there is evidence that these facts may not be an accurate reflection of history, Flanagan still maintains his allegiance to such literalist readings. As such, Flanagan's history is isolated from, rather than woven into, the material conditions that determined the fate of the Métis land base.

Ens has further problems with discovering which factors are related, or not, to the land question. Something unrelated, but upon which Ens places great emphasis, is the question of the buffalo-robe trade. As explained earlier, leaving one's territory to conduct trade explains nothing about how that land disappeared as a communal land base to which the Métis were entitled to return. A related matter that Flanagan and Ens assert is *not* related is the rampant racism of the time. For example, Flanagan and Ens acknowledges that there were "push factors not associated with the land issue" (1998, 25). Ens describes this period as follows: "The arrival of the Wolseley expedition in 1870 signalled the beginning of these difficulties ... Canadian settlers and Ontario volunteers acted in defiance of all law and authority and established virtual mob rule in Winnipeg during 1871–2. It was not safe for a French Metis to be seen near Fort Garry (the location of the land office), and those who did venture into Winnipeg risked life and limb" (1996, 161–62). How can the standard discourse set out context such as this and then fall back almost exclusively on individual decision-making within the market context? Indeed, earlier research Ens *did* see an association: "Infant mortality probably reflected these cultural difficulties, and must be taken into consideration to understand the much lower rates of persistence of the French Metis on their river lots after 1870" (1996, 159).<sup>35</sup> Ens also pointed out that the emigration from St. François Xavier was much higher than that of St. Andrews between 1870 and 1881. To explain, he writes:

Further, this large increase in emigration from St. Francois Xavier cannot be fully explained by a greater commitment of the French Metis to the buffalo-robe trade ... Rather, much of the difference in migration rates between the two parishes after 1870 must be attributed to the linguistic and religious intolerance of the new settlers arriving from Canada. (1996, 161)

In that same work, Ens even noted that delay played a factor in Métis migration: "Doubtless the delays of the government in dealing with Metis lands affected the migration of Metis from Red River" (1996, 164). In light of this broad context of push factors, it is hard to come to terms with the focus that Ens has on a) looking at the intention of individual government officials and b) arguing that the Métis sold their lands in order

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<sup>35</sup> Ens cites another example of settler violence:

The behaviour of these Ontario settlers, particularly during the federal election riots of 1872, gave pause to even the most confident Metis. Mobs, incited by 'Orangemen' Cornish and Mulvey, invaded St. Boniface polls with bludgeons and later smashed James Cunningham's press. These outrages, sometimes supported by soldiers stationed in the province, made the Metis wonder whether the authorities had enough power to punish the culprits. Their skepticism was reinforced in March 1873 when Curtis Bird, an English Metis and speaker of the Assembly, was tarred for his opposition to a bill to incorporate the Town of Winnipeg. (Ens 1996, 145)

to pursue the buffalo-robe trade. After all, the Métis were not going to leave their lands and opt to play parcheesi. Yet in the even after noting these factors, Ens again pointed to government intentions arguing that government officials did not *deliberately* overlook anyone (Ens 1996, 164).

The lack of justification in the historical accounts of the standard discourse has, for the reasons above, led me to reject some arguments entirely. Because the arguments are pinned down by faulty assumptions, I must also reject the methods. To do less is actually to reiterate the faulty assumptions:

[T]here is something more specifically deficient about a counterquestion. If the original question, which is under attack, is mistaken, then its basic assumptions are probably faulty. But a counterquestion, in its reflexive inversion of the original, tends to repeat the original assumptions, faults and all, and thereby to perpetuate the error. Counterquestions repudiate conclusions but reiterate premises. The resultant revision is objectionable not because it is revisionist but because its revisionism is incomplete and superficial. (Fischer 1970, 29)

To accept these premises and merely argue outcomes, therefore, is a superficial response that will not ultimately lead to any greater appreciation of these key moments in Canadian history.

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