Promised Peoples on Promised Lands: Mennonite and Métis Land Relations and Property Law in Southern Manitoba

Isabel Klassen-Marshall, *University of Toronto*

> "The settler owes the fact of his very existence, that is to say his property, to the colonial system." —Frantz Fanon[1]

> "Settlers are not immigrants. Immigrants are beholden to the Indigenous laws and epistemologies of the lands they migrate to. Settlers become the law." —Eve Tuck and K. Wayne Yang[2]

Despite playing a foundational role in the expansion of the Canadian settler colony, Mennonites are little mentioned in Canadian national discourse. Mennonite immigration to Canada, particularly to southern Manitoba in the late nineteenth century, is practically and discursively predicated on the logic of *terra nullius*. For example, in her account of settling in Manitoba, my great-great-great-grandmother Maria Klassen wrote:

> In the meantime our fathers . . . paid another visit to Mr. Miller in order to complete the claim papers, and once again we continued our trek to our homestead. In the middle of nowhere Father suddenly turned off the trail, stepped off the cart and announced, "Now we are home." There weren't any habitations in sight except the distant village of Grünthal in its early stages. And so began our life as Canadians.[3]

In this passage Maria equates being Canadian with settling on and claiming uninhabited lands. From Maria's perspective, the land was "Canadian" before her arrival. By 1881, seven thousand Mennonites had immigrated from southern imperial Russia onto land in the Red River area reserved for them by the Canadian government,[4] yet the Anishinaabeg, Cree, and Métis nations had been living on and stewarding what is now known as southern Manitoba for centuries to millennia. In 1870, there were at least ten thousand documented Métis living at the Red River settlement.[5]

In order to reflect on Canada's eliminationist logic of settler colonialism, this paper seeks to understand the legal processes behind the displacement and dispossession of the Métis and the immigration of Russian Mennonites. Specifically, I focus on two questions: (1) how was legislation about property and settlement wielded to advance the frontier and jurisdiction of Canada, and (2) what was the role of Mennonites in this advancement? I explore these through secondary and primary sources that document how federal property law was enacted on the ground and in the daily lives of Métis and Mennonites. I am limited by the use of translated German sources but have attempted to find the "voice" of the Mennonite settler through translated accounts, including my great-great-great-grandmother's diary. In order to understand Métis perspectives on settlement and property law, I use the Métis French-language newspaper *Le Métis,* Métis petitions, and accounts in secondary sources.

I argue that Canadian property legislation was mutable in order to consistently expand Canadian jurisdiction and dispossess Indigenous Peoples of their lands. A comparison of Mennonite and Métis land claim processes exemplifies how Canadian official amended and manipulated the application of property legislation in order to allow for the settlement of "desirable" immigrants and to forestall or deny the recognition of Indigenous land rights. Contrasting the application of the Manitoba Act of 1870 and the Dominion Lands Act of 1872 illustrates how Canadian law overwhelmingly allowed Mennonite settlement on collective Mennonite terms while simultaneously preventing Métis from receiving the collective land base promised to them in the Manitoba Act. Through an analysis of Canadian legislative history, my second aim is to demonstrate that Mennonites, despite desiring exclusion, were not a people apart from the state. Mennonite existence in Canada is a product of social constructions of appropriate kinds of collectivity and jurisdictional independence that were manifested in and regulated through Canadian law.

Constructions of Appropriate Grouphood: The Mennonites

Ethnic Mennonites have a history based on migration. The search for a jurisdiction that would allow Mennonites collective exceptions of conscience determined many Mennonite migration decisions, including the choice to immigrate to Canada. In an account of her travels through the Dominion of Canada, which included a visit to a Mennonite settlement, viceregal consort Lady Dufferin referenced these aims, writing, "the Mennonites have left Russia for conscientious reasons, in the same way they left their native land, Germany, and settled in Russia, because they would not fight, and these two countries require that their subjects should serve in the army."[6] Upon considering whether to resettle in Canada, a Mennonite delegate who toured southern Manitoba warned that "one should not only consider the land question but also not forget the matter of freedom, for that is the reason we came to this country and are making the long journey."[7] Historian Reginald Good demonstrates that "freedom" was a factor inducing some Mennonites to immigrate to Canada instead of the United States, as they expected to retain "freedom from military service longer" in Canada and to "be able to have church and school under our own [Mennonite] administration."[8] For Mennonites, settlement was thus not solely about access to arable land, but also about access to their own collective jurisdiction and its associated freedoms.

Due to their history of past migration, Mennonites were understood as "experienced" settlers. British-Canadian colonial agents of expansion explicitly described Mennonites as environmentally equipped to settle the Canadian frontier. For example, Lady Dufferin referenced Mennonite experiences as agriculturalists in the Russia in order to situate them as appropriate Canadian settlers: "Necessity (in Russia) has taught them to make a peculiar fuel—cakes of manure, mixed with straw. . . . With this they get through the long Canadian winter without wood or coal."[9] Agricultural settler experience was one factor that made Russian Mennonites the target of Canadian immigration officials. In this respect, the Mennonites were understood to be "most desirable emigrants; they . . . can settle in a woodless place, which no other people will do."[10] In 1873 and 1876 the federal government set aside two large blocks of crown land for the exclusive use of Mennonites, termed the East and West reserves.[11] These reserves, located on either side of the Red River, contained forty-two townships in total.[12]

Beyond their agricultural skills and settler past, gendered constructions of femininity, masculinity and family also made Mennonite immigration desirable. This contrasted markedly with gendered

representation of Indigenous Peoples on the prairies. Ojibwe scholar Heidi Kiiwetinepinesiik Stark argues that Canada and the United States harnessed "constructions of criminality to assert jurisdiction over sovereign Indigenous lands and bodies" built along gender lines and within a gender binary.[13] Indigenous men were constructed as violent and incapable of agriculture.[14] Indigenous women were constructed as immoral and as poor homemakers.[15] Through these racist and sexist configurations, settler states both criminalized Indigenous people and blamed them for increasingly poor living conditions. In reality, these were the result of settler encroachment and colonial policies of geographic confinement.[16] Conversely, and in addition to their agricultural skills, Mennonites were constructed as the ideal settlers because they settled in families. The presence of women in Mennonite communities was expected to lead to strong homesteads while preventing settler deviance and criminality on the frontier. Race was also a factor in the construction of Mennonites' appropriateness as they were understood as European and white-adjacent, if not white. Laws were enacted in the early twentieth century to prevent the immigration of Black people to the Canadian prairies, further demonstrating the Canadian government's racialized understanding of which immigrants were "appropriate."[17]

Mennonite settler experience, whiteness, and gender dynamics were not the only incentives for the Canadian government to support and subsidize the settlement of Russian Mennonites. Concerned with the rapid pace of westward settler-colonial expansion in the United States, Prime Minister John A. Macdonald predicted that the first wave of settlers to the prairies, including the Mennonites, would contribute informally to the establishment Canadian sovereignty on Indigenous land.[18] Thus, Mennonites were also chosen in order to populate the homelands of the Métis with "productive" settlers who would expand the Canadian frontier and displace an Indigenous nation with a history of resisting the Canadian state.

Constructions of Appropriate Grouphood: The Métis Nation

The Métis are an Indigenous nation formed through relationships between Indigenous women and French or British men in the Upper Great Lakes region in the eighteenth century.[19] Indigenous studies scholar Chris Andersen describes how the Métis historically forged an identity that continues to this day despite multiple government attempts to destroy it:

> Throughout the mid-nineteenth century they [Métis] engaged in a mixed economy of fur trade employment, independent trading, farming and buffalo hunting. Red River Métis collectively created, borrowed and combined elements to form a distinctive culture and lifestyle separate from both their Euro-Canadian and First Nations neighbours, including a new language, form of land tenure, laws, a distinctive form of dress, music, a national flag and, in 1869–70, distinctive political institutions. Indeed, by Canada's formal establishment in 1867 the Métis constituted an indigenous nation of nearly 10,000 people possessing a history, culture, imagined territorial boundaries, national anthem and, perhaps most importantly, a sense of self-consciousness as Métis.[20]

The Métis created their own distinct identity and population in the Red River region prior to Mennonite settlement in the area. They coexisted with nearby pre-existing Indigenous nations such as the Cree, Anishinaabe, and Sioux, and shared kinship ties, resources, and space with these nations. Anderson emphasizes Métis forms of land tenure, legal systems, and a strong sense of national self-consciousness to demonstrate that Métis had (and continue to have) an understanding of jurisdiction over their territory and themselves. This assertion of sovereignty is further demonstrated through the Métis word for themselves, *Otipimsuak,* which is derived from a Cree word meaning "the free people" or "people who own themselves."[21] Métis were not, and are not, passive subjects in the violent process of Canadian settler colonialism. The Métis Nation resisted Canadian settler-colonial expansion prior to Mennonite settlement in Manitoba and continued to do so after. This included large-scale rebellions such as the 1869 Red River Resistance and the 1885 North-West Resistance in addition to everyday acts of defiance.

Settler Colonialism and its Eliminationist Logic

Historian Patrick Wolfe defines settler colonialism as "an inclusive, land-centred project that coordinates a comprehensive range of agencies, from the metropolitan centre to the frontier encampment, with a view to eliminating Indigenous societies."[22] The discrepancies between the drafting and application of federal legislation concerning the allotment of land to Métis and Mennonites clearly illustrate how law, and property law in particular, was used to further the land-centred approach of settler colonialism. Land remains so central in this logic because of its connection to Indigenous nationhood. Thus, property law and immigration are complementary strategies by which settler colonialism attacks Indigenous nationhood.[23] Settler colonialism's eliminationist logic can be

understood through its organizing principles of attempting to eliminate Indigenous Peoples (or at least their ties to land and sovereignty) and replacing these nations with a settler society.[24] This Métis-Mennonite case study demonstrates clearly how legislation in the settler-colonial country of Canada enacted and institutionalized this attempt at elimination and replacement. Agriculture and Mennonite success in the field were dependent on dispossessing Indigenous Peoples of their land and jurisdictions in order for Canada to support a growing settler population.[25]

Before turning to Canadian legislation and land dispossession, the idea of property must be interrogated. Property, at least in the ways the idea been applied in colonial and settler-colonial spaces, is a Western concept that cannot be easily imposed onto existing and varying Indigenous understandings of land.[26] According to political theorist Robert Nichols, the theft of land is what created "property" that could be owned, bought, and sold as a commodity in settler colonies.[27] Nichols describes this theft as "recursive dispossession," a process that operates through transference, transformation, and retroactive attribution.[28] Transference happens when Indigenous land is "transferred" by multiple nefarious means into the hands of settlers and settler governments. The land is then transformed into "property" that can be owned, bought, and sold in its Western understanding. Original ownership of the land is then "retroactively attributed" and Indigenous stewardship or presence on the land is recognized once the intended dispossession has already occurred. As we will see in this case study, Mennonite immigration in the late nineteenth century was an impetus for the transference and transformation of Indigenous land.

By distorting land tenure, recursive dispossession also impacts the correlated jurisdiction over land. Legal scholar Brenna Bhandar argues that "if the possession of land was (and remains) the ultimate objective of colonial power, then property *law* is the primary means of realizing this desire."[29] The assertion and tenure of jurisdiction and the laws that flow from it can also be analyzed through Nichols's recursive framework. The imposition of colonial jurisdiction over land was often asserted by colonial officials prior to them actually "having the capacity to exercise authority over Indigenous peoples in their territories."[30] Property law can thus pre-emptively assume and subsequently manifest this jurisdiction. For example, section 32(4) of the Manitoba Act states:

> All persons in peaceable possession of tracts of land at the time of the transfer to Canada, in those parts of the Province in which the Indian Title has not been extinguished, shall have the right of pre-emption of

> the same, on such terms and conditions as may be determined by the Governor in Council.[31]

This legislation purported to afford settlers and Indigenous people the right of pre-emption. In reality, it allowed for the theft of land under the jurisdiction of Indigenous nations. This theft subsequently provided the encroaching settler nation with the power to assert its jurisdiction through its numerical advantage. An analysis of the Manitoba Act of 1870 and the Dominion Lands Act of 1872 demonstrates how an uneven and biased application of these two pieces of property legislation ultimately furthered the expansion of Canadian jurisdiction.

Legislating Dispossession: The Manitoba Act and its Amended Application

After years of Métis resistance to territorial encroachment and widening claims to jurisdiction, first by the Hudson's Bay Company and later by the Canadian government, the negotiation of the Manitoba Act addressed, in part, Métis political power and claims to land. Historically (and currently for many Métis), this act is a treaty between two nations rather than a constitutional document internal to one state.[32] Métis scholar Adam Gaudry makes a strong argument for understanding the Manitoba Act as a treaty document resulting from an international negotiation. It achieved success where previous statutes internal to the Canadian state had not.[33] The negotiation, between the Métis Nation and other parties in Manitoba and Canada, also included several verbal and written agreements not contained in the official version of the Manitoba Act.[34] Regardless of how it is interpreted today, the Manitoba Act included a section explicitly directed at reserving a land base for the Métis people and ensuring collective Métis futurity. Section 31 of the Manitoba Act reads:

> And whereas, it is expedient, towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted lands, to the extent of one million four hundred thousand acres thereof, for the benefit of the families of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to

> settlement and otherwise, as the Governor General in Council may from time to time determine.[35]

Although this section does not explicitly state whether the 1.4 million acres of land promised to the Métis should be held or distributed collectively, Gaudry demonstrates that Métis understood their land rights as simultaneously individual and collective and asserted this understanding at the act's negotiations.[36] In close contact with Louis Riel,[37] Abbé Ritchot, the delegate from the Provisional Government of Assiniboia meant to represent the Métis Nation at the negotiations, argued that the Métis land grant must be distributed as a continuous reserve on good soil as "large areas held in common are necessary to the maintenance of each group of the population."[38] Upon returning from the negotiations of the Manitoba Act, Ritchot assured the Red River Métis that any ambiguous or uncertain parts of the document were to be interpreted in favour of the Métis. This led the Métis to understand that they would be able to lay claim to the area they had occupied for decades between the Pembina and Assiniboine Rivers.[39] Legislators made statements in Parliament to the effect that the 1.4 million-acre land reserve was the primary concern of the government and that it was to be allotted *prior* to the opening up of the province to settlers.[40]

However, this land was never distributed in a collective sense geographically (or proprietarily) and little of the promised 1.4 million acres ended up in Métis hands. Along with a policy of forestallment, the Canadian government made many amendments to the Manitoba Act in order to prevent the intended land distribution. In 1874 and 1875, only a few years after the Manitoba Act was passed, federal amendments required Métis to demonstrate "continuous occupation" in order to receive patents to their land.[41] In 1876, an order-in-council instituted by the federal government interpreted section 32(4) of the Manitoba Act as recognizing title to land only under "peaceable possession" and not "staked and unoccupied" claims.[42] If claims had merely been marked or staked but not surveyed prior to July 15, 1870, the land would not be considered for title or patents. From the perspective of colonial officials, this order-in-council effectively eliminated the four Métis claims to land overlapping with proposed areas for Mennonite settlement on the East Reserve.[43] Finally, in 1877, a federal executive memorandum required that "really valuable improvements" be made to claimed lands in order for the land in question to be patented.[44]

These legal manipulations of sections 31 and 32 of the Manitoba Act transformed the terms within which Métis land was reserved. Increasingly steeped in colonial understandings of property, they

veered further away from the mutual negotiation that created the Manitoba Act. Requirements of "improvement" and "occupation" were based on Western notions of agricultural productivity and settlement that, as experienced settlers, the Mennonites were seen to exemplify. These amendments opposed Métis communal land use practices based around meeting communal needs rather than commodifying land. Gaudry explains how Métis homesteaders had many different physical methods of denoting what land they stewarded. These methods included staking, cutting into trees, plowing the edges of lots, or leaving log structures behind in order to indicate intended future occupation. These methods of demarcating land were meant to ensure futurity for Métis families and communities as land was often claimed pre-emptively for use by family members and in-laws.[45] Métis families were not only reserving land prior to more permanent settlement. Rather, these communities often used the land seasonally as needed for uses such as "cutting hay and timber, pasturing livestock, and making maple sugar."[46] Eventually a more permanent house would be erected and crops would be planted. Clearly, Métis were using lands and planning for their futures. Yet, the Canadian government interpreted some of these staked claims as unproductive or not permanently occupied and thus available for transference to settlers.

In 1873 the Manitoba legislature passed the Half-Breed Land Grant Protection Act. Contrary to the prior orders-in-council which had served to diminish Métis land rights, this new act was meant to retroactively void undervalued sales of Métis land and protect Métis against land speculators.[47] Although it is not clear how often or how effectively this law was applied, many colonial officials opposed this act as they felt it rendered large swaths of land inaccessible to settlers. For example, in 1876, the federal minister of interior, David Mills, advocated for the cancellation of the Half-Breed Land Protection Act on the grounds that it restricted excessive amounts of land and that the Métis should be able to participate in the land market without government interference. The act was subsequently amended and cancelled.[48]

Another government tactic to prevent the collective allocation of land to the Métis was the practice of individually allotting land via scrip. Scrip refers to a document, such as a coupon or certificate, denoting a bearer's right to something. In the case of the Métis, the right in question was either to land or remuneration for said land.[49] The historical record makes it clear that the allotment of land via scrip was part of an intentional effort to individually and collectively extinguish Métis title to land. Overseeing the distribution of the Métis land grant in 1870, Lieutenant-Governor Adams George

Archibald argued that giving Métis freehold land titles would be beneficial to the advancement and settlement of Canada.[50] Archibald wrote:

> He might make bad use of it—in many cases he would do so. He might sell it for a trifle. He might misuse the proceeds. Still the land would remain, and in passing from the hands of a man who did not know how to keep it, to those of one who had money to buy it, the probabilities are all in favor of the purchaser being the most thrifty and industrious of the two, and the most likely to turn the land to valuable account.[51]

Within Archibald's reasoning are many normative understandings of what is valuable and who creates value. His argument is based on what historian Brian Gettler calls the idea of inherent Indigenous improvidence—the view that Indigenous Peoples are unable to understand or responsibly use money. Gettler explains how this concept was encoded in law through the Indian Act by defining all status Indians as minors under the legal guardianship of the Indian Department.[52] Archibald applies such an understanding of improvidence to both Métis land tenure and money in the hopes that exploiting this supposed improvidence will result in land being settled by "productive" settlers, a view that Mennonites would later take advantage of. Underscoring how pivotal the individual process of extinguishing Métis title through scrip was to creating collective settler communities and spaces, Archibald writes, "it is just by such movements that a hamlet, or village, or town grows up." [53] Demonstrating how the idea of scrip was yet another harmful unilateral amendment to the Manitoba Act, historian D. N. Sprague notes: "The substitution of personal property for real property meant that the claimants were not protected by any of the safeguards which normally applied to the assignment and registration of land. The purpose of Section 31 as it applied to heads of families was, therefore, not fulfilled."[54]

While Archibald's proposed land distribution process had racist underpinnings, it was at least a process that meant to place either real or personal property in Métis hands. Unfortunately, not even this process was legally administered and the illegal administration of scrip further dispossessed Métis of their homelands. In his study of the administration of Manitoba land claims between 1870 and 1887, Sprague surveys how provincial and federal government officials amended and applied the Manitoba Act and introduced new legislation in such a way as to prevent Métis from claiming their existing or promised lands.[55] For example, Sprague notes that the first section of the 1885 provincial statute An Act Relating to the Titles of Half-Breed Lands effectively applies one law to Métis and

a different one to white people. For Métis, illegitimate sales of scrip by the parents of scrip-holders were enforceable by law based on the act, whereas such sales were not enforceable in the cases of white children. This further dispossessed Métis children of their birthright.[56] Constitutionally dubious federal amendments to the Manitoba Act limited Métis claims to land under section 32. Eventually, the federal government passed a final amendment limiting the time frame for claims, purposefully denying many Métis due process, and leaving many claims unheard.[57]

Throughout the more tangible denials of the Manitoba Act, such as the amendments and the scrip process, there was also an overall federal policy of stalling the distribution of the promised Métis land grant. Prime Minister Macdonald directed Lieutenant-Governor Archibald to keep all Métis land claims suspended administratively until the province of Manitoba was "swamped" by "industrious & peaceable settlers." According to Reginald Good, it was assumed these settlers would be "unsympathetic to Métis aspirations for self-determination," setting the stage for the transference of Métis land.[58] This policy was a contradiction of the spirit and intent of the Manitoba Act negotiations, where ministers stated the Métis land grant would be allotted prior to European settlement.[59] Métis were keenly aware of this tactic and used similar language during the negotiations to prevent such a breach of promise. Métis Nation delegates at the Manitoba Act negotiations felt that their primary obligation was to preserve Métis existence and to prevent themselves from being "swamped" by settlers unsympathetic to their cause.[60] The Métis Nation asserted their own legal rights and values within these negotiations through comprehensive lists of demands.[61] Unfortunately, the Canadian government continued their policy of avoiding allowing "large concentrations of natives."[62] Within the eliminationist logic of settler colonialism, land and jurisdiction meant power, longevity, and futurity for whoever had access to it. Both the Métis Nation and the Canadian government understood the significance of land. In order to continue their project of eliminating Indigenous sovereignty and ties to land while confronted with consistent Métis resistance, the Canadian government manipulated the Manitoba Act.

The Dominion Lands Act and its Exceptional Application

The federal Dominions Lands Act of 1872 was devised to encourage settlement and homesteading on the Canadian prairie. Demonstrating the centrality of land to the structure and continuation of

settler colonialism,[63] the act created the largest survey grid in the world with over 1.25 million homesteads granted over 80 million acres of land. The act also reserved land for First Nations. However, Métis land distribution was excluded entirely.[64] Focused on encouraging and delineating regulations for European settlement, the act decreed that heads of settler families over the age of twenty-one were eligible for a 160-acre homestead in the prairies and would receive a patent to the land after three years if requirements such as residing *individually* on and "improving" the land were met.[65]

The requirements of the Dominion Lands Act paralleled those of the amendments to the Manitoba Act in their emphasis on colonial ideals of individuality and agricultural improvement in relation to property ownership. However, the Dominions Lands Act was amended to allow for the collective settlement of Mennonites on reserves in southern Manitoba. As noted earlier, collective living was integral to many Mennonite communities. Under the parameters of the Dominion Lands Act, settlers were expected to both farm and live on the same plot of land. Mennonites were opposed to this regulation as they were accustomed to living communally in villages and practicing open-field farming around their villages.[66]

In 1876, the Dominion Lands Act was amended to suit patterns of Mennonite farming and social organization. The amendment stated that "in the case of settlements being formed of immigrants in communities . . . the Minister of the Interior may vary or waive, in his discretion, the foregoing requirements as to residence and cultivation on each separate quarter-section entered as a homestead."[67] This amendment came to be known as the "hamlet privilege" as it allowed Mennonites to live collectively in "hamlets" or villages.[68] It also allowed Mennonite culture, language, and ways of living to persist and thrive despite Mennonite lifeways differing significantly from the mainstream Franco-Catholic and Anglo-Protestant settler-colonial cultures. Exceptions such as the hamlet privilege were not afforded to Métis communities. The Canadian government continued their intentional and protracted policy of avoiding concentrated settlements of Métis.

Other exceptions were afforded to Mennonites. Orders-in-council made possible the creation of the two reserves set aside for exclusive Mennonite settlement "so as to enable them to form their own communities," promised "absolute immunity" from military service, and assured Mennonites they could take advantage of the option to affirm instead of swearing oaths. Mennonites were also attracted to settle in Manitoba by the assurance they would have the right to operate their own schools, an assurance the government made on the basis of existing law and practice.[69]

In order to receive the patent to their land after the necessary requirements were met, settlers were expected to become citizens of Canada. In order to become naturalized, they were required to swear an oath of allegiance. Mennonites were averse to this requirement as they had religious objections to the swearing of oaths as well as the possibility of being expected to perform military service based on the oath.[70] The government responded to these concerns in an August 27, 1877, order-in-council, which noted a report from a Dominion Lands agent that "Mennonites hesitate to take the Oath of Allegiance from the fear that the doing so will render them liable to Military Service, to which they are opposed, the same being contrary to the doctrine of their religion."[71] Referring to the promise of exemption from military service that had been made prior to the Mennonites' emigration from Russia, the order recommended the Mennonites be informed that taking the oath, though necessary to receive a land patent, would not infringe on their immunity from military service.[72] The various exceptions afforded to Mennonites demonstrate the willingness of the Canadian settler state to accommodate groups that upheld and furthered settler expansion and jurisdiction at the cost of Indigenous ways of living.

Government support for Mennonites went beyond exceptions and toward significant subsidization. In addition to reserving arable land, the federal government supplied Mennonites with funding, guaranteed by Mennonites already settled in Ontario, to facilitate Mennonite settlement and farming. In doing so, the Canadian government played a significant role in manifesting their understanding of Mennonites as agriculturalists. The local Métis French language newspaper *Le Métis* often reported on the government funding provided to the Mennonites. For example, on February 21, 1875, *Le Métis* reported that the Canadian government was advancing $100,000 to the Mennonites in order to encourage their immigration and aid them in setting up their farms.[73] About a month later, *Le Métis* published a story explicitly asking that funding for Mennonite settlement be reduced and apportioned to French Canadian settlement.[74] *Le Métis* assumed that French Canadian settlers would be more sympathetic to the Métis cause and land claims.[75]

The Métis Nation and the Canadian government advocated for different groups of settlers to immigrate to Manitoba based on how these groups would interact with the Métis Nation politically. On top of being understood as skilled agriculturalists, the fact that Mennonites were pacifists made them desirable settlers. According to the Canadian government, they posed no risk of allying with the Métis or other Indigenous nations resisting the colonial state.[76] The southern Manitoba lands that Mennonites settled on were of great

political-economic value to the Métis. The area between the Red River settlement and the United States included important trade routes and were vital for staging prior to the buffalo hunt.[77] Métis exercised much political and socioeconomic power throughout these lands. Allowing possible Métis allies to settle on these lands would not have been in the interest of the Canadian government.

For their part, Mennonites assumed themselves to be pacifists and thus disengaged from violence. However, settling in the prairies was predicated upon a tacit military alliance with the violent and genocidal Canadian state. This violence was enacted structurally through the role Mennonites played in dispossessing Indigenous nations, particularly the Métis, of their lands and jurisdictions. It was also expressed in the encounters that made Mennonite existence in the prairies possible to begin with.

Law in Practice and Mennonite Complicity: Mennonite-Métis Relations on the Ground

While Canadian laws, and their biased application, contributed to the dispossession of the Métis land base, relations and encounters on the ground were also necessary to assert these laws and their dispossessive intent. From the beginning of Mennonite settlement, violence, or at least the threat thereof, played a role in allowing Mennonites to establish themselves in Manitoba and to thrive. In 1873, prior to Mennonite settlement in Manitoba, Louis Riel led the resistance of the Métis and other Indigenous nations in an effort to prevent encroaching settlement.[78] Lieutenant-Governor Alexander Morris feared that this movement, and a possible ensuing rebellion, would interfere with European settlement. He asked Prime Minister Macdonald to send a five-hundred-man police force to repress the Indigenous resistance.[79] Agreeing that Métis resistance had to be met, Macdonald sent a three-hundred-man constabulary force along with orders, if possible, to arrest Riel, disperse Métis power, and assert Canadian jurisdiction.[80] Although Mennonites immigrated to Canada because they saw it as an idyllic space to practice their secluded and pacifist ways of life, the conditions for their settlement required an explicit military intervention.

The assertion of Canadian jurisdiction through violence continued throughout the process of establishing Mennonite settlement. In 1873, a delegation of Mennonites from Russia toured the lands in southern Manitoba that the Canadian government proposed they settle. The visit coincided with the sixth anniversary of Canadian Confederation and the Mennonite delegates attended a Dominion

Day parade in Winnipeg on July 1st.[81] On the way back to their hotel, they came across a group of Métis men, and there was an altercation between a Métis man and the conductor of one of the Mennonite wagons.[82] It is unclear who instigated the incident as both sides blamed the other. When the Mennonites returned to their hotel, they found it surrounded by the Métis party they had encountered earlier.[83] The Mennonites and their guide, immigrant agent William Hespeler, felt threatened by the Métis. Hastily, Hespeler wrote a note to Lieutenant-Governor Morris asking for prompt military aid: "Dear Sir: We are attacked by halfe Breeds—we are in danger of our lifes—please send soldiers at once as we can not leave the place."[84] A fifty-man provisional battalion was sent to confront the group. Morris suspected the altercation might have been a prelude to another Riel uprising.[85] Five Métis men were arrested.[86] The understanding of the incident reported in *Le Métis* differed significantly from that of the Mennonites. *Le Métis* described the altercation as a "whiskey row," within which no one meant to upset the Mennonites.[87] Conversely, the Mennonites and their guide felt as though they were in significant danger. Despite being pacifists, the Mennonites were quick to rely on the Canadian military and justice system to resolve the situation. In this instance, Mennonite settlement afforded Canadian officials the opportunity to exert jurisdiction on Métis land through the use of military force.

This altercation, which came to be known as the "Dominion Day Brawl," must be understood within the context of the imminent settler encroachment on Métis lands that the Mennonite delegation represented. In particular, there were fifteen Métis families claiming lands overlapping with the proposed Mennonite East Reserve.[88] Roger Goulet, a Dominion lands agent and a Métis man, purposefully avoided showing the Mennonite delegation the lands already staked by the Métis.[89] In fact, in a possible act of Métis resistance and an attempt to dissuade Mennonite settlement, Goulet showed the delegation the worst agricultural lands on the proposed reserve and avoided areas that would have better access to fresh water and good soil drainage.[90] The fifteen Métis families made their concerns about Mennonite immigration known. In 1879, after Mennonites began settling in the East Reserve, the Department of the Interior received a petition from ten Métis men, including relations of Goulet, asking that the land "they had [taken] up and improved, subsequently granted to the Mennonites, may be again restored to them, or an equivalent compensation therefor."[91] Due to the 1876 Manitoba Act amendment requiring claims to land to be surveyed rather than staked before a certain date, the land ended up in Mennonite hands.[92]

Although many contests over these lands were negotiated via federal land and immigration agents, most Mennonites would have known the lands they were planning to occupy were not uninhabited. In 1873, J. Y. Shantz, a Mennonite living on the Haldimand Tract in southern Ontario, published his *Narrative of a Journey to Manitoba*. The settlement that Shantz was from had been established about a century prior, mostly by Swiss Mennonites moving north from Pennsylvania onto Haudenosaunee and Anishinaabe territories.[93] Many Ontario Mennonites wished to support and encourage Mennonite immigration to Manitoba and Shantz's account of travelling to the province was meant to act as a guide to attract Russian Mennonites.

Upon reading this account, emigrating Russian Mennonites would have been aware of both Métis claims to land and Métis grievances. Shantz wrote that "the half-breeds are settled for the most part along the Assiniboine and Red Rivers," near land that would be proposed for Mennonite settlement.[94] He also explained the cause behind the Métis rebellion in 1869:

> They thought that our [Canada's] Government should first consult them and give them a certain right to the lands they then occupied and also lands for their children. An arrangement has now been come to between these people and the Government which gives to every man, woman and child living at that time, one hundred and forty acres of land; with this they are now satisfied, and they seem to be well pleased with the action of the Government.[95]

It can be assumed that many of the delegates and key decision-makers within the emigrating Russian Mennonite communities would have thus been aware of Métis claims to land in the area they were considering settling as well as the Manitoba Act and its promised Métis land grant.

However, this knowledge may or may not have been distributed throughout Mennonite communities. Many Mennonite settlers continued to uphold Indigenous erasure and the logic of *terra nullius*. For instance, my great-great-great-grandmother Maria Klassen wrote, "In 1879 some more virgin soil was broken in preparation for next year's crop."[96] Yet the land she was referring to had been stewarded by Indigenous Peoples since time immemorial and, in more recent decades, by the Métis Nation. In participating in erasure through agriculture, Mennonites were also met with everyday acts of Indigenous resistance. The Métis used agriculture as a space within which to assert their use of, and jurisdiction over, the land. For example, in 1877, a municipal directive was sent out at the behest of Métis. Translated into English, it read, "English and

Halfbreeds will fine anyone burning straw." The accompanying German translation stated, "Halfbreeds and English have complained about prairie fires and have said that they will fine the person who sets one between $50 and $500."[97] The West Reserve mayor, Isaak Mueller, asked Mennonites to abide by this order as it affected Métis hunting, trapping and burning practices.[98] Evidently, Mennonites would have been aware that they were sharing their environment with the Métis and were expected to respect Métis ecological knowledge and jurisdiction.

Contests of Land are Contests of Life

In the late nineteenth century, Métis, Mennonites, and the Canadian government all understood that, within the structure of settler colonialism, contests of land were also contests of life and lifeways.[99] The Canadian government understood the necessity of preventing Indigenous collectivity in order to expand colonial jurisdiction and dispossess Indigenous Peoples of their land by including Mennonite settlement in their colonial scheme. Mennonites were simultaneously searching for a place to settle that would afford them enough jurisdiction to practice their collective lifeways apart from the state but, crucially, with the protection of the state when they felt threatened. Canadian property law was a key mechanism in configuring all the aforementioned dynamics. Canadian property law, contorted through multiple amendments and policies of administrative forestallment, intentionally prevented the Métis Nation from receiving the collective land base agreed to in the Manitoba Act negotiations. Conversely, Canadian law was altered and applied by legislators and government officials in order to allow Mennonite collective settlement through the amendment of the Dominion Lands Act of 1872. Despite cultural and religious values of pacifism, collectivity, and seclusion that the state may have perceived as abnormal, Mennonite whiteness, familial structures, and agriculturalism made them ideal settlers for expanding the Canadian frontier through property and jurisdiction. Colonial policies were consistently met with Métis resistance at small and large scales and eventually culminated in the 1885 North-West Resistance, a violent insurgency against the Canadian government and its encroachment on Métis lands and sovereignty. Ultimately, the resistance was not successful and Indigenous lands and jurisdictions remain under the control of the Canadian government despite Canada's claims to sovereignty being largely unfounded. Mennonites continued to settle westward, establishing communities in Saskatchewan in the 1890s.

Today, Mennonites live throughout Canada and are still concentrated in southern Manitoba. Although most Mennonites no longer live in secluded religious enclaves, Mennonite identity and culture, along with a strong sense of community, persist. This is partially due to the intergenerational effects of owning land as a community. Métis continue to exist and assert sovereignty in their homelands, yet have still not received the land allotted to them in the Manitoba Act, despite multiple recent efforts in Canadian courts to address this injustice. For the Métis as for Indigenous Peoples across the land now known as "Canada," the struggle against the enduring logic of settler colonialism to secure a collective land base remains fundamental to assertions of sovereignty.

Notes

1 Frantz Fanon, *The Wretched of the Earth* (1963; repr., London: Penguin Press, 2001), 28.
2 Eve Tuck and K. Wayne Yang, "Decolonization Is Not a Metaphor," *Decolonization: Indigeneity, Education & Society* 1, no. 1 (2012): 6.
3 Maria Schellenberg Klassen in Katherine Martens, *All in a Row: The Klassens of Homewood* (Winnipeg: Mennonite Literary Society, 1988), 158.
4 Donovan Giesbrecht, "Métis, Mennonites and the 'Unsettled Prairie,' 1874–1896," *Journal of Mennonite Studies* 19 (2001): 106.
5 Gerhard J. Ens, "The *Manitoba Act*, the Métis and the Mennonites: A Tale of Two Reserves," *Preservings*, no. 36 (2016): 6.
6 Marchioness of Dufferin & Ava, *My Canadian Journal, 1872–'78: Extracts from My Letters Home Written While Lord Dufferin Was Governor-General* (London: John Murray, 1891), 332.
7 Reg Good, "Crown-Directed Colonization of Six Nations and Métis Land Reserves in Canada," PhD diss., (University of Saskatchewan, 1994), 442.
8 Good, "Crown-Directed Colonization," 449.
9 Dufferin, *My Canadian Journal*, 332.
10 Dufferin, *My Canadian Journal*, 332.
11 John Warkentin, "Mennonite Agricultural Settlements of Southern Manitoba," *Geographical Review* 49, no. 3 (July 1959): 343.
12 Warkentin, "Mennonite Agricultural Settlements," 343.
13 Heidi Kiiwetinepinesiik Stark, "Criminal Empire: The Making of the Savage in a Lawless Land," *Theory & Event* 19, no. 4 (Oct. 2016): 1–2.
14 Stark, "Criminal Empire: 2; Sarah Carter, "Categories and Terrains of Exclusion: Constructing the 'Indian Woman' in the Early Settlement Era in Western Canada," *Great Plains Quarterly* 13, no. 3 (Summer 1993): 148.
15 Carter, "Categories and Terrains," 148.
16 Carter, "Categories and Terrains," 148.
17 Omayra Issa, "Crossing Boundaries: Centuries of Black Migration of the Canadian Prairies," CBC News, Apr. 25, 2021, https://www.cbc.ca/newsinteractives/features/crossing-boundaries.

[18] Shelisa Klassen, "'Recruits and Comrades' in 'a War of Ambition': Mennonite Immigrants in Late 19th Century Manitoba Newspapers," (master's University of Manitoba/University of Winnipeg, 2016), 11.
[19] Chris Andersen, "From Nation to Population: The Racialisation of 'Métis' in the Canadian Census," *Nations and Nationalism* 14, no. 2 (2008): 349.
[20] Anderson, "From Nation to Population," 350.
[21] Frank Tough and Erin McGregor, "'The Rights to the Land May Be Transferred': Archival Records as Colonial Text—A Narrative of Métis Scrip," *The Canadian Review of Comparative Literature* 34, no 1 (2011): 34.
[22] Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006): 393.
[23] Wolfe, "Settler Colonialism," 400. Settler colonialism is also predicated upon a triad of "native-settler-slave" relations in which mostly Black people are enslaved in order to provide labour for the settler state and Indigenous people are "eliminated" in order to allow settler states to access to land. Tuck and Yang, "Decolonization," 7.
[24] Wolfe, "Settler Colonialism," 388.
[25] Christine Hippert, "Agriculture and Colonialism," in *Encyclopedia of Food and Agricultural Ethics*, ed. Paul B. Thompson and David M. Kaplan. (Dordrecht: Springer Netherlands, 2018), 3.
[26] For more on the history of the conception of "property," see Robert Nichols, *Theft Is Property! Dispossession and Critical Theory* (Durham, NC: Duke University Press, 2020), esp. chaps. 1 and 2.
[27] Nichols, *Theft Is Property*, 13.
[28] Nichols, *Theft Is Property*, 8.
[29] Brenna Bhandar, *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership* (Durham, NC: Duke University Press, 2018), 3.
[30] Shiri Pasternak, *Grounded Authority: The Algonquins of Barriere Lake against the State* (Minneapolis: University of Minnesota Press, 2017), 4.
[31] Manitoba Act, 1870, S.C. 1870, c. 3.
[32] Adam Gaudry, "*Kaa-tipeyimishoyaahk*—'We Are Those Who Own Ourselves': A Political History of Métis Self-Determination in the North-West, 1830–1870 (PhD diss., University of Victoria, 2014), 295; Darren O'Toole, "Section 31 of the *Manitoba Act, 1870*: A Land Claim Agreement," *Manitoba Law Journal* 38, no. 1 (2014): 74.
[33] Gaudry, "Kaa-tipeyimishoyaahk," 293.
[34] Gaudry, "Kaa-tipeyimishoyaahk," 294.
[35] Manitoba Act.
[36] Gaudry, "Kaa-tipeyimishoyaahk," 294
[37] Gaudry, "Kaa-tipeyimishoyaahk," 291.
[38] W. L. Morton, ed., *Manitoba: The Birth of a Province* (Winnipeg: Manitoba Record Society Publications, 1965), 159.
[39] Good, "Crown-Directed Colonization," 412.
[40] Gaudry, "Kaa-tipeyimishoyaahk," 289.
[41] Warkentin, "Mennonite Agricultural Settlements," 107.
[42] G. Ens, "Tale of Two Reserves," 9.
[43] G. Ens, "Tale of Two Reserves," 9.
[44] Giesbrecht, "Unsettled Prairie," 107.
[45] Gaudry, "Kaa-tipeyimishoyaahk," 123–24.
[46] Gaudry, "Kaa-tipeyimishoyaahk," 124.
[47] The Half-Breed Land Protection Act, S.M. 1874, c. 44.

[48] Good, "Crown-Directed Colonization," 458–59.
[49] Tough and MacGregor, "Rights to the Land," 36.
[50] Good, "Crown-Directed Colonization," 421.
[51] Lieutenant-Governor Adams Archibald to Joseph Howe, Dec. 27, 1870, quoted in Good, "Crown-Directed Colonization," 420–21.
[52] Brian Gettler, *Colonialism's Currency: Money, State, and First Nations in Canada* (Montreal: McGill-Queens University Press, 2020), 73.
[53] Good, "Crown-Directed Colonization," 421.
[54] D. N. Sprague, "Government Lawlessness in the Administration of Manitoba Land Claims, 1870–1887." *Manitoba Law Journal* 10, no. 4 (1980): 419.
[55] Sprague, "Government Lawlessness," 418.
[56] Sprague, "Government Lawlessness," 421.
[57] Sprague, "Government Lawlessness," 431.
[58] Good, "Crown-Directed Colonization," 462.
[59] Gaudry, "Kaa-tipeyimishoyaahk," 289.
[60] Gaudry, "Kaa-tipeyimishoyaahk," 265; Good, "Crown-Directed Colonization," 422.
[61] Gaudry, "Kaa-tipeyimishoyaahk," 290.
[62] Good, "Crown-Directed Colonization," 426.
[63] *The Canadian Encyclopedia*, s.v. "Dominion Lands Act," by Eli Yarhi and T. D. Regehr, last modified Jan. 30, 2020.
[64] Kirk N. Lambrecht, *The Administration of Dominion Lands, 1870–1930* (Regina: Canadian Plains Research Centre, 1991), 7.
[65] G. Ens, "Tale of Two Reserves," 7.
[66] G. Ens, "Tale of Two Reserves," 7.
[67] Adolf Ens, *Subjects or Citizens? The Mennonite Experience in Canada, 1870–1925* (Ottawa: University of Ottawa Press, 1994), 36.
[68] A. Ens, *Subjects or Citizens*, 37.
[69] A. Ens, *Subjects or Citizens*, 12–14, 17, 237.
[70] A. Ens, *Subjects or Citizens*, 38.
[71] Order-in-Council P.C. 1877-0786 (Aug. 27, 1877), Library and Archives Canada, RG2, Privy Council Office, Series A-1-a, vol. 359.
[72] Order-in-Council P.C. 1877-0786. Some of this discussion about oaths draws from Pamela Klassen and Isabel Klassen-Marshall, "Oaths as Ceremonial Promises for Treaty People," in *Making Promises: Oaths, Treaties, and Covenants in Multi-Jurisdictional and Multi-Religious Societies,* ed. Benjamin Berger, Monique Scheer, and Pamela Klassen (Toronto: University of Toronto Press, forthcoming).
[73] *Le Métis,* Feb. 21, 1875.
[74] *Le Métis,* Mar. 20, 1875.
[75] Good, "Crown-Directed Colonization," 462.
[76] Good, "Crown-Directed Colonization," 470.
[77] Lawrence Barkwell, "Fort Pembina and the Pembina Métis Settlement" (Louis Riel Institute, n.d), 1–3.
[78] Barkwell, "Fort Pembina," 449.
[79] Barkwell, "Fort Pembina," 450.
[80] Barkwell, "Fort Pembina," 451.
[81] Joseph R. Wiebe, "On the Mennonite-Métis Borderland: Environment, Colonialism, and Settlement in Manitoba," *Journal of Mennonite Studies* 35 (2017): 115.
[82] *Le Métis,* July 5, 1873.

[83] *Le Métis,* July 5, 1873.
[84] A. D. Doerksen, "Dominion Day Brawl on the White Horse Plains," *Manitoba Pageant* 20, no. 1 (Autumn 1974).
[85] Doerksen, "Dominion Day Brawl."
[86] *Le Métis,* July 5, 1873.
[87] *Le Métis,* July 5, 1873.
[88] Giesbrecht, "Unsettled Prairie," 104.
[89] Giesbrecht, "Unsettled Prairie," 106.
[90] Good, "Crown-Directed Colonization," 440.
[91] Department of the Interior, Ottawa to Dominion Lands Agent Winnipeg (February 18, 1879) in Giesbrecht, "Unsettled Prairie": 106.
[92] G. Ens, "Tale of Two Reserves," 9.
[93] Samuel J. Steiner, *In Search of Promised Lands: A Religious History of Mennonites in Ontario* (Kitchener, ON: Herald Press, 2015), 58.
[94] J. Y. Shantz, *Narrative of a Journey to Manitoba* (Ottawa: Department of Agriculture, 1873), 12.
[95] Shantz, *Narrative of a Journey*, 15.
[96] Klassen in Martens, *All in a Row*, 159.
[97] Wiebe, "Mennonite-Métis Borderland," 116.
[98] Wiebe, "Mennonite-Métis Borderland," 116.
[99] Wolfe, "Settler Colonialism," 387.