

THE DANIELS CASE

FREQUENTLY ASKED QUESTIONS

What happens next?

The federal government appealed the decision on February 6, 2013. The case will go to the next level of court, – the Federal Court of Appeal. The next appeal level after that would be the Supreme Court of Canada. It is very likely these appeals will take several years. It is expected that the federal government will not move forward on implementing *Daniels* while the case is under appeal. It will likely take the position that the “matter is before the courts” in order to avoid discussions and negotiations with the Métis Nation on the potential implications from *Daniels*.

Métis are not Indians – why are we happy about a case that says we are Indians?

The *Daniels* case does not say that Métis are culturally Indians. It simply says that the term “Indian” in the *Constitution Act, 1867* (which sets out federal jurisdiction) is broad enough to include Métis, in the same way it is broad enough to include Inuit (who are also not culturally Indians). Think of it as similar to how the term “Aboriginal” is used as today. While First Nations, Inuit and Métis people are all “Aboriginal” that does not make them the same. Historically, the term “Indian” was used in the same way “Aboriginal” is used today (*i.e.*, includes all Aboriginal peoples). Métis are happy about the decision because it removes the “lack of jurisdiction” excuse the federal government has long used in order to avoid dealing with Métis rights, interests and needs.

Now that Canada has jurisdiction for Métis, does that mean they control or have power over Métis?

No, jurisdiction does not mean that the federal government has control or power over the Métis. It simply means the federal government has the jurisdictional mandate to legislate with respect to Métis issues as well as deal with the Métis on a nation-to-nation basis in order to reconciliation Métis rights and claims. For example, the federal government could pass a *Canada-Métis Nation Relations Act* or some other piece of legislation that recognizes Métis Nation governance structures, Métis rights, etc.

I'm Métis. Does this mean Métis can get registered under the *Indian Act*?

No, this case was not about the *Indian Act*. This decision does not put Métis under the *Indian Act*. It does not make or allow Métis to become “status Indians”. It also does not mean that Métis can access programs and services that are currently only available to “status Indians”.

Does this case now recognize Métis rights everywhere in Canada?

No, the *Daniels* case was not about Métis rights such as land, harvesting or self-government rights. It was only about answering the constitutional question of whether the federal government had legislative jurisdiction for Métis.

What benefits (i.e., non-insured health benefits, education, etc.) does this decision win for Métis?

This case was not about winning financial benefits or additional programs and services for Métis. It was only about answering the constitutional question of whether the federal government had legislative jurisdiction for Métis. It does not mean that Métis are now entitled to all the same benefits as status Indians or other Aboriginal peoples, but it should open the door for future discussions between the federal government and the Métis Nation on the distinct needs of its citizens as well as Métis rights and claims.

Does this case affect or recognize Métis harvesting rights?

No, this case has absolutely no effect on the Métis Nation's harvesting rights. The case also does not recognize or affirm Métis harvesting rights outside of areas where litigation has been successful or where Métis harvesting agreements have been negotiated between Métis governments and other governments.

Does the *Daniels* case effect the Métis Nation's definition of Métis?

No, the *Daniels* case has absolutely no effect on the Métis Nation's national definition for citizenship in the Métis Nation. The Métis Nation's definition was arrived at based on its inherent right to define its own citizenship. No court decision could ever change that definition.

Does the *Daniels* case mean that the Métis Nation's Homeland is now Canada-wide?

No, this case does not change the Homeland of the Métis Nation, which encompasses the three Prairie Provinces and extends into Ontario, British Columbia, the Northwest Territories and the northern United States. While the Court developed a definition of Métis for the purposes of s. 91(24) that is national in scope, this does not change the identity, history or territory of the Métis Nation in any way. It also does not make communities that claim to be "Métis", and which are outside of the Métis Nation Homeland, a part of the Métis Nation.

This case was about Métis, why was CAP involved?

Litigation is expensive and CAP received significant funding from the federal government to litigate this case. Similar funding was not provided to the MNC. The MNC and its Governing Members have been focusing limited litigation resources on establishing Métis harvesting rights from Ontario westward and advancing Métis land claims. Since the MNC and its Governing Members represent the Métis Nation, it will have to be these Métis governments that will be engaged in relation to implementing the *Daniels* case. In the decision, the Trial Judge recognized that the CAP is not the representative of the Métis Nation.

Now that the case has been appealed, will the Métis Nation get involved?

Yes, the MNC will become involved in the case to ensure the Métis Nation is properly represented.