



The *Daniels* Case at the SCC: Recognition of Métis and Non-status Aboriginal Peoples

Chaired by

Jean Teillet

Pape Salter Teillet LLP

October 25th, 2016 • UBC Robson Square • Vancouver, BC

Live Webinar also available!



CHAIR



Jean Teillet, IPC (B.F.A., LL.B., LL.M.), Counsel to the law firm of Pape Salter Teillet LLP, Barristers & Solicitors, Vancouver, BC and Toronto, ON. Ms. Teillet specializes in Aboriginal rights litigation and negotiations and is currently the chief negotiator for the Stó:lō Xwexwilmexw who are negotiating a treaty in the lower Fraser Valley in BC. Ms. Teillet was counsel at the Supreme Court of Canada in *Pamajewon, Powley, Taku River and Beckman* and acted for interveners in other cases including *Blais, MMF, Paul, Cunningham, Haida, Delgamuukw* and *Moulton Contracting*. She also acted for an intervener in *Daniels* at the Federal Court of Appeal. Ms. Teillet maintains an active role as a public speaker and primarily speaks on Aboriginal rights, access to justice and Charter issues. She is published in many journals and law books and is the author of *Métis Law in Canada*. Ms. Teillet is currently writing a popular history of the Métis Nation, which will be published by Harper Collins in 2017. Ms. Teillet is an adjunct professor of law at UBC and teaches a course in Métis Law. She is a former Treasurer and Vice-President of the Indigenous Bar Association, and was the first recipient of the Law Society of Upper Canada's Lincoln Alexander Award. In 2011, Ms. Teillet was awarded the title "Indigenous Peoples Counsel" by the Indigenous Bar Association. In 2012, she was awarded the Queen Elizabeth II Diamond Jubilee Medal. She has been awarded two honorary doctorates: Guelph University (2014); Law Society of Upper Canada (2015). Ms. Teillet is the great grand niece of Louis Riel.

FACULTY



Karey Brooks, Principal, JFK Law Corporation, Vancouver, BC. Karey practises civil litigation with a focus on Aboriginal, constitutional and administrative law. She has appeared in all levels of court, including in British Columbia, Alberta and Ontario. Karey primarily acts for First Nations and First Nations organizations in court and negotiations with government and industry on matters relating to Aboriginal rights and title, consultation, regulatory matters, including environmental assessments, and general governance matters, including status and membership issues. Karey also has experience in other public law related work, including with respect to Charter rights litigation and public inquiries. Karey was co-counsel to the Aseniwuche Winewak Nation in *Daniels v. Canada*. In 2016, Karey was awarded the UBC Law School Outstanding Young Alumnus Award and in 2015, she was recognized as one of *Canada's Legal Rising Stars* by Lexpert.



Christopher Devlin, Director, Devlin Gailus Westaway Law Corporation, Victoria, BC. Christopher's practice focuses on Aboriginal and treaty law on behalf of First Nations, tribal councils, Métis groups and other Indigenous organizations. Christopher works with Indigenous peoples throughout Western Canada, as a litigator, negotiator and strategic advisor. He has appeared as counsel at all levels of court, including the Supreme Court of Canada, as well as before administrative tribunals and regulatory panels. He has negotiated multi-party agreements on behalf of Indigenous clients, including specific claim settlements, consultation process agreements and impact benefit agreements. Christopher has been recognized as a leading lawyer in the area of Aboriginal Law in the 2012 through 2016 Canadian Legal Lexpert® Directory. Christopher was part of DGW's legal team representing the Métis Federation of Canada in *Daniels v. Canada*.



Gwynneth C.D. Jones, Independent Historian, Vancouver, BC. Ms. Jones has more than 30 years' experience in historical research, policy and negotiations on issues related to Aboriginal land and natural resource harvesting claims. Since 1995, she has practised as an independent historian, and has been retained by Canada, provincial governments, First Nations and Métis organizations in BC, AB, NWT, MB and ON to conduct historical research and prepare reports on a variety of issues. She has appeared as an expert witness in *R. v. Powley*, *Daniels v. HMTQ*, and several other trials related to Aboriginal rights and claims. Ms. Jones is a member of the Canadian Historical Association and has been a frequent presenter at its annual conferences. She has also been a guest speaker to university level history classes and delivered staff training presentations on the history of Aboriginal/non-Aboriginal relations, land claims, and the treaty process.



Dr. Bruce Mclvor, Principal, First Peoples Law Corporation, Vancouver, BC. Dr. Bruce Mclvor is a lawyer and historian. First Peoples Law is dedicated to defending and advancing Aboriginal title, Aboriginal rights and treaty rights. Bruce has represented First Nations at all levels of court and assists First Nations across the country in the defence of their Aboriginal and treaty rights and the negotiation of impact benefit agreements for major resource development projects. Bruce is a proud Métis from the Red River. He holds a law degree, a Ph.D. in Aboriginal and environmental history and is a Fulbright Scholar.



Brian Slattery, Professor of Law and Distinguished Research Professor, Osgoode Hall Law School, York University, Toronto, ON. Known for his foundational work on Aboriginal rights and constitutional theory, Professor Slattery has devoted much of his scholarship to overhauling the standard conception of the Canadian Constitution in a way that takes account of the distinctive rights and historical contributions of Aboriginal peoples. In other scholarly work, Professor Slattery has explored the philosophical foundations of human rights and the continuing vitality of the natural law tradition. In the 1990s, Professor Slattery served as a senior advisor to the Federal Royal Commission on Aboriginal Peoples. He was elected to the Royal Society of Canada in 1995 and was named a York University Distinguished Research Professor in 2009.

The *Daniels* Case at the SCC: Recognition of Métis and Non-status Aboriginal Peoples

After years of litigation, the Supreme Court of Canada in *Daniels v. Canada* made a historic declaration that Métis and non-status Aboriginal peoples are "Indians" within the meaning of section 91(24) of the *Constitution Act, 1867*. This decision has the potential to fundamentally alter the relationship between the Federal Government and Métis and non-status Aboriginal peoples. As such, it is necessary to understand the decision and how it will be interpreted and implemented going forward. Following on PBLI's successful symposium in Ottawa last June, this forum brings together nationally recognized experts in the areas of Métis rights, constitutional law, and Aboriginal law to provide you with a thorough and balanced examination of the important consequences arising out of the *Daniels* decision.

THIS FORUM WILL COVER:

- The implications of the *Daniels* case and how we got to where we are
- Who are Métis and who are the non-status "Indians"?
- How *Daniels* will impact Métis and non-status "Indians"
- Who are the Aboriginal Peoples of Canada?
- The Courts' new approach to subsection 91(24)
- In-depth analysis of the consequences

WHO SHOULD ATTEND:

- The government and leadership of Métis and non-status Aboriginal peoples
- Aboriginal leaders, officials, councillors, elders and advisors
- Lawyers practising Aboriginal law
- Federal, provincial and municipal government officials and policy advisors
- Academics
- Consultants, negotiators and professionals involved in economic development or Aboriginal, Métis and non-status Aboriginal consultation/accommodation

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OCTOBER 25TH, 2016

9:00 Welcome and Introduction by PBLI

9:05 Chair's Welcome

Jean Teillet
Pape Salter Teillet LLP

**9:15 Overview of the *Daniels* Case:
Laying the Foundation**

Gwynneth C.D. Jones
Gwynneth C D Jones

Jean Teillet
Pape Salter Teillet LLP

- Historical context of the case
- Sections 35 and 91(24) of the *Constitution Act, 1982*
- The distinction between jurisdiction and rights
- Analysis of *Daniels v. Canada*

10:05 Questions and Discussion

10:15 Refreshment Adjournment

**10:30 Who are Métis and What are the
Implications of Daniels?**

Christopher Devlin
Devlin Gailus Westaway Law Corporation

- How and where distinctive Métis communities arose
- How Métis communities were historically distinguished from Indian and non-Aboriginal communities
- Are there more than one Métis people in Canada?
- Who are the Métis people covered in Daniels? What are the implications for them?

11:30 Questions and Discussion

11:45 Networking Lunch

**1:00 Who are Non-Status Indians and What
are the Implications of Daniels?**

Karey Brooks
JFK Law Corporation

- History of the non-status Indians
- How and why people lose their status
- Impact of the *Daniels* case

2:00 Questions and Discussion

2:15 Refreshment Adjournment

2:30 The New Approach to Subsection 91(24)?

Dr. Bruce McIvor
First Peoples Law

- Subsection 91(24) since the SCC decisions in *Tsilhqot'in* and *Keewatin*
- What does *Daniels* add to this understanding?
- What is in the "core" of the section?

3:15 Questions and Discussion

**3:25 Blood, Bannock, and Belonging: Who Are
the Aboriginal Peoples of Canada?**

Brian Slattery
Osgoode Hall Law School

- What role, if any, does "blood" or "descent" play in identifying Aboriginal peoples?
- What is the significance of "culture" or "way of life"?
- May individuals qualify as "Aboriginal people" for constitutional purposes or only Aboriginal groups?

4:25 Questions and Discussion

4:40 Chair's Closing Remarks

4:45 Program Concludes

INFORMATION

Four Ways to Register:

1. Telephone us: 604-730-2500 or toll free: 1-877-730-2555
2. Fax us: 604-730-5085 or toll free: 1-866-730-5085
3. Mail your registration form with payment
4. Register at www.pbli.com/1304

Registration: The registration fee is \$770.00 plus GST of \$38.50 totalling **\$808.50** covering your attendance at the program (in person or by live webinar), written materials, a light breakfast, a networking lunch and refreshments throughout the day.

Early Bird Discount: Register by September 26th, 2016 and receive a \$100 discount on registration fee (\$670.00 plus GST).

Group Discounts: Register four persons from the same organization at the same time and you are entitled to a complimentary fifth registration. Early Bird and Group Discount cannot be combined.

Payment: You may pay by VISA, MasterCard or cheque. Cheques should be made payable to the Pacific Business & Law Institute. Registration fees must be paid prior to the program.

When and Where: Check-in begins at 8:30 a.m. The program starts at **9:00 a.m.** UBC Robson Square is located at the basement level of **800 Robson Street** in Vancouver, BC. Please visit <http://robsonsquare.ubc.ca/find-us/> for directions.

Materials: The faculty will prepare papers and/or other materials explaining many of the points raised during this program. Materials will be available for pick up at the program. Please contact us at registrations@pbli.com if you are unable to attend the program and wish to purchase a set of materials.

Your Privacy: We will keep all information that you provide to us in strict confidence, other than to prepare a delegate list containing your name, title, firm and city for our faculty and the program delegates. We do not share our mailing lists with any non-affiliated organization.

Cancellations: Full refunds will be given for cancellations (less a \$60.00 administration fee) if notice is received in writing five full business days prior to the program (**October 18th, 2016**). After that time we are unable to refund registration fees. Substitutions will be permitted. We reserve the right to cancel, change or revise the date, faculty, content, availability of webinar or venue for this event.

Course Accreditation: Attendance at this course can be listed for up to **6 hours** of continuing professional development with the Law Societies of BC and Upper Canada. For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.

Registration Form

Pacific Business & Law Institute

Unit 2 – 2246 Spruce Street
Vancouver, BC Canada V6H 2P3
Telephone: 604-730-2500; Fax: 604-730-5085
Email: registrations@pbli.com

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UBC Robson Square, Vancouver, BC

☐ In person ☐ Live webinar

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