RECONSIDERING CONFEDERATION: Canada's Founding Debates, 1864–1999
Edited by Daniel Heidt

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Introduction: Reconsidering Confederation

Daniel Heidt

July 1, 1867, was a beginning only, not an end. Nova Scotia had to be reconciled. Prince Edward Island and Newfoundland must be wooed, if there were to be unity in handling the fisheries. The Northwest had to be annexed if it were to be saved for Canada. Beyond the Rockies was British Columbia, which must be won to union to give Canada [an] outlet to the Pacific. These things, rather than the integration of the new governments, were still the main work of Confederation: union, to be union, had to include expansion.[1]

<div align="right">W.L. Morton, 1964</div>

Anticipating Canada's centennial year, historian W.L. Morton wrote that the date of 1 July 1867 "was a beginning only, not an end." Canada, as we know it today, remained only a dream. On its first day, the new "dominion" was a fledgling amalgam of Nova Scotia, New Brunswick, Quebec, and Ontario constituting something more than a colony, but still less than an independent country. Even then, the move had been unpopular in the Atlantic colonies, and Nova Scotian voters would soon elect anti-Confederate MPs to all but one of their federal ridings. Prince Edward

Island and Newfoundland, meanwhile, had rejected the project, and the residents of Rupert's Land and British Columbia had yet to be consulted about membership. Canada's motto "*A Mari usque ad Mare*" (Latin for "from sea to sea"), instilling the image of a country spanning northern North America from the Atlantic to the Pacific, remained an unfulfilled aspiration. Confederation, to be successful, had to accommodate the interests and cultures of these diverse regions and Peoples.

The formation of a country, separate from the United States and bordering three oceans, ultimately required decades to achieve and over one hundred and thirty years to reach its current complement of three territories and ten provinces. While Canada grew to encompass much of its present-day geographical extent during the two decades after it was created, the political boundaries we recognize today were far from certain. Alberta, Saskatchewan, the Yukon, and Nunavut all took shape during the late nineteenth and early twentieth centuries—repeatedly and dramatically reshaping the Northwest Territories in the process. Voters in Newfoundland and Labrador remained wary of Confederation and the colony/dominion did not ultimately become a part of Canada until 1949. Treaty negotiations between the Crown and Indigenous Peoples also came in fits and starts, creating misunderstandings that still plague the country today. A twenty-first century understanding of Confederation must also include these foundational additions to the Canadian political framework.

Each proposed addition or change spawned debates in colonial, territorial, and federal legislatures as well as negotiations at meeting places on traditional territories. At these assemblies, leaders weighed the merits of deals that would bring their constituents into the Canadian fold. Their opinions, historian Peter B. Waite would later note when writing about the 1860s debates, "were held with stubbornness and expounded with conviction."[2] Very few of the participants, it is true, engaged in deep philosophical debates as American founders Thomas Jefferson and Alexander Hamilton did,[3] but, as Janet Ajzenstat and her co-editors point out in their collection of Canada's early debates, the so-called pragmatism of our country's founders has been misunderstood as a dearth of "strong commitment to political values" or a lack of "interest in political ideas."[4] Whether they convened during the 1860s or the late 1990s, these founding assemblies were opportunities to expand, reaffirm, or shift Canada's ideals and development. Participants from different parts of the country or cultural

backgrounds repeatedly contested how Canada would navigate timeless concerns like local autonomy, minority rights, majority rule, nationalism, liberty, and equality. Their successes and failures at balancing these often-conflicting values created legacies that we live with today. During these discussions, the participants regularly recalled past precedents to justify their positions, creating a chain of interconnected dialogues that reveal the roots and evolution of Canadian attempts to balance inclusion and autonomy.

The Stakes

Political reputations were won and lost during these founding discussions and historians have expended considerable energy debating which politicians deserve the credit—or the blame—for Canada's past and present successes and failures. Sir John A. Macdonald, for example, has been portrayed as *The Man Who Made Us* (to borrow journalist Richard Gwyn's recent description) in dozens of biographies and books over the years.[5] Other authors emphasize the contributions of other political leaders who shaped Canada. The biographers of George Brown, George-Étienne Cartier, and Thomas D'Arcy McGee all point out the critical roles that these individuals played in convincing the Province of Canada and two initial Maritime provinces to join Confederation in 1867.[6] Books on Nova Scotia's Charles Tupper and Newfoundland's Joey Smallwood, make a similar case for the important contributions of these key founders.[7] In recent decades, Louis Riel's leadership of the opposition to the unilateral imposition of central Canadian designs on the Prairies has attracted nearly as much attention as Macdonald's attempts to create a country spanning the continent—and perhaps even more sympathy than Macdonald's expansionism.[8] In British Columbia, Amor de Cosmos' campaign to bring that colony into Confederation has also received some attention.[9] Those who opposed union, such as Albert Smith, William Annand, Antoine-Aimé Dorion, John Helmcken, and Kenneth Brown have not received as much attention despite their critical contributions to the debates and, consequently, the form of the subsequent union. "While the Antis lost the battle," historian Ged Martin notes, "they won at least some of the arguments" and their critiques of the Confederation deal often proved to be prophetic.[10]
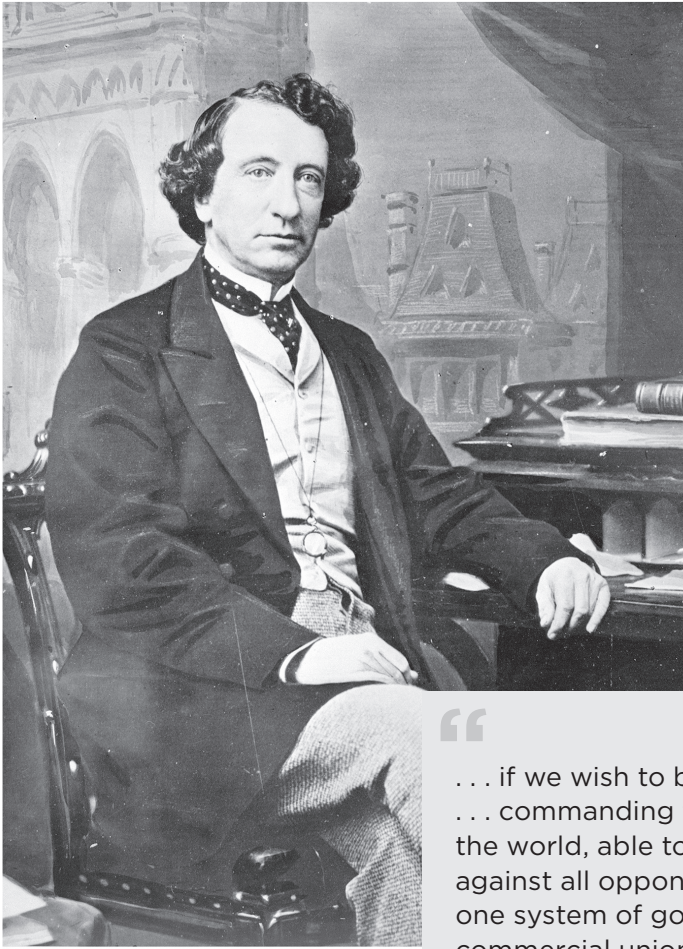
CONFEDERATION QUOTE 1.1
Quotation from Province of Canada,
Legislative Assembly, 6 February, 1865
Photograph from Library and
Archives Canada, C-006513

" . . . if we wish to be a great people . . . commanding the respect of the world, able to hold our own against all opponents . . . [with] one system of government, and...a commercial union . . . obeying the same Sovereign . . . and being, for the most part, of the same blood . . . this can only be obtained by a union . . . between the scattered and weak . . . British North American Provinces. "

Confederation Quote 1.2
Quotation from Newfoundland National
Convention, 28 October 1946
Photograph from *Who's Who in and
from Newfoundland*, page 198.

"

I am against confederation as I
see it today. I came here with an
open mind, with no preconceived
ideas. I did not go to my district
and preach confederation; I did
not preach anything. Whatever
government is best for the people,
that is the government I would
vote for and I will do it today
regardless of resolutions brought
in by Mr. Smallwood or by
anyone else.

"

Interpreting Canada's Past

Over the past one hundred and fifty years, historians have described and analyzed how different parts of the country balanced their desires for autonomy against attempts to establish a national economy and common political values when assessing Canada's development. "The aim of Confederation was political—the creation of a great 'new nationality'," according to Donald Creighton. He saw it as the product of "a political agreement among several provinces" that would extend the economic reach of the "Empire of the St. Lawrence" across British North America.[11] While Creighton celebrated this expansionism, regional historians have questioned Central Canada's power and fairness. In 1986, David Bercuson aptly summarized the common contention among Prairie and Maritime historians that "the federal government has always been more representative of the desires and ambition of Central Canada than the Maritimes and the West together. Central Canada is where the votes are and where elections are won and lost; this was true at Confederation and it remains true today."[12] As a result of these power asymmetries, T.W. Acheson contends, the Maritimes were subsumed within "empire Canada."[13] W.L. Morton, writing during the 1940s, went even further by insisting that "Laurentian imperialism" marginalized the Prairies into a "colony of a colony" that suffered economic exploitation and Central Canadian political dominance.[14]

Centralist leaders perpetuated this sense of regional marginalization when they insisted on what Donald Creighton later described and defended as "Dominion paramountcy and national leadership."[15] Noting the bloody American Civil War over states' rights inspired by strong regional identities and disagreements, John A. Macdonald, Charles Tupper, and several other founders would have preferred the establishment of a single parliament (a unitary government, without provinces, resembling that of the United Kingdom) to govern all of the provinces and territories. Widespread desire within all of the colonies for some degree of local autonomy, however, made a legislative union impractical. Instead, they proposed a highly centralized federation with limited powers assigned to the provinces, which would remain subordinate to a federal government so that the latter could create a common sense of allegiance to the Crown while balancing each province or region's diverse expectations and interests.[16]

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Many Canadians rejected this centralist vision. While the phrase "provincial compact" did not come into widespread use until 1869, several debaters described Confederation as an interprovincial "treaty" between 1865 and 1867. Pro-Confederation speakers emphasized the constitutional entrenchment of exclusive provincial jurisdictions when rebutting warnings by "antis" that union would infringe upon local autonomy. Each province, in this view, surrendered discrete jurisdictions—such as maintaining separate military forces—in return for the benefits of membership in a larger union. These benefits, they maintained, included each province's right to exclusive jurisdiction in other areas—such as private property—making these governments coordinate with, rather than subordinate to, the federal government. This concept of a provincial compact was also fundamental to the provincial rights movements of the nineteenth and early twentieth centuries, and it is also critical to understanding the subsequent and heated debates on education, Crown lands, and natural resource rights for Alberta and Saskatchewan during the late nineteenth and early twentieth centuries.[17]

Other visions of Confederation's purpose were more cultural. In the eyes of many French Canadians, Confederation entrenched Quebec as a safe-haven. During the late nineteenth and early twentieth century, Quebec's unique constitutional rights were sufficient to calm assimilationist concerns within the province. Events like Louis Riel's execution in 1885, however, contributed to "a new insistence in French-Canadian rhetoric on the need for the two races, English- and French-Canadian, to live together in peace and harmony, to share Canada between them on friendly and equitable terms."[18] This view of Canada as a bicultural compact of two "founding peoples" motivated French-Canadian leaders such as Henri Bourassa to advocate on behalf of French minorities across the country, and featured prominently in the lengthy parliamentary debates that led to the creation of the new provinces of Alberta and Saskatchewan in 1905. According to this vision, Canadians needed to preserve and cultivate bicultural identities or at least bilingualism to foster national unity.[19]

Indigenous Peoples are also contesting their place in Canada. "For over a century," the Truth and Reconciliation Commission recently observed, "the central goals of Canada's Aboriginal policy were to eliminate Aboriginal governments; ignore Aboriginal rights; terminate the Treaties;

and, through a process of assimilation, cause Aboriginal Peoples to cease to exist as distinct legal, social, cultural, religious, and racial entities in Canada."[20] Today, Canadians are increasingly sensitive to this longstanding mistreatment and to the need for reconciliation. It is now widely acknowledged that our country was founded by at least "three founding Peoples."[21] This volume embraces this important shift by recognizing that Indigenous Peoples were and continue to be "partners in Confederation" (as the Royal Commission on Aboriginal Peoples insisted)[22] and by affirming that their Treaties with the Crown remain a way to "harmonize" relations between Indigenous and non-Indigenous Peoples in Canada.[23] Despite the longstanding need for this sort of coming together, Indigenous legal scholar John Borrows observes that "many non-Indigenous leaders believe that treaties are about concluding old, unfinished business. They do not generally see treaties as creating structures for present and future Indigenous growth and interaction with the nation state."[24] The present anthology encourages Canadians to recognize the treaties as well as the oral agreements reached during the negotiations, as "foundational documents."[25] In so doing, it takes up the Truth and Reconciliation Commission's call to encourage Canadians to embrace the idea that, "by virtue of the historical and modern Treaties negotiated by our government, we are all Treaty people."[26]

Outline

J.R. Miller therefore begins this book's discussion of Confederation by outlining the precedents, practices, and agreements that inform Canada's Treaties with Indigenous Peoples. Indigenous-Crown agreements evolved over centuries into intricate relationships. The earliest agreements, Miller explains, were commercial compacts between European traders and Indigenous fur suppliers. As competition within the fur trade expanded and contestation of lands intensified, these compacts included written agreements promising peace and friendship. After the War of 1812, these treaties typically resembled contracts whereby the Crown acquired Indigenous Lands. Crown agents subsequently began viewing these treaties as "indentures"—or one-time deals. Despite these shifts, leaders from both sides attending negotiations and renewal meetings continued to follow Indigenous ceremonial practices. As the nineteenth century

progressed, land-related treaties became the most frequent form of agreement which, by the 1870s, "took on the form of a covenant, a three-sided agreement to which the deity was a party" and which were "intended to be renewed annually, last forever, and be modified as circumstances required." While Miller cautions that all three forms of treaty-making are "authentic" within the right contexts, he points out that the present-day disconnect between Indigenous Peoples and the Crown owes to the fact that Indigenous Peoples continue to view their treaty relationship as a covenant, while the Crown has used its power to enforce a narrower interpretation of treaties as contracts with limited and unchanging obligations.

Subsequent chapters focus on the post-1865 era, reviewing each province, territory, or region's incorporation into Canada. Where and when applicable, they also integrate Indigenous-Crown Treaties into the discussion about Confederation. The next chapter of the book explains why Confederation was the most popular in Upper Canada. Future Ontarians, Daniel Heidt notes, did not yet think of themselves as "Canadians," and therefore assessed Confederation with a provincial consciousness that may seem foreign to present-day Ontarians. These assessments were informed by the colony's multi-decade pursuit of responsible government, representation by population, and the North-West. Confederation offered all of these rewards, making the deal almost irresistible. Only a few politicians opposed the 72 Resolutions, and their complaints about the potential financial burden of union for Ontario, doubts about national unity, and critiques of the government for refusing to allow the electorate to vote on union did not detract from the deal's overwhelming luster. But Confederation did not end in 1867 for Ontario. Expansion into the North-West required forging agreements with the Indigenous Peoples inhabiting present-day northern Ontario. During the late 1860s and early 1870s, these groups possessed considerable bargaining power and used this leverage to secure better terms than the Crown initially offered. This power eroded, however, by the turn of the century, and Crown officials frequently misled Cree and Ojibwa leaders who had little choice but to sign Treaty 9.

Marcel Martel, Colin M. Coates, Martin Pâquet, and Maxime Gohier then review the other side of the Province of Canada's story. Confederation, they contend, "happened because of Quebec, not in spite of it." When delegates gathered in Charlottetown in September 1864 and a month later in Quebec City, French-speaking representatives from the future province

of Quebec were in a position of relative strength at the negotiating table despite being members of a linguistic and religious minority. During negotiations and debates, many French-Canadian representatives favoured federalism. They insisted on separation from Canada West and provincial control of political and social institutions that they judged instrumental to strengthening French-Canadian culture and identity. For their part, English-speaking representatives from Quebec obtained additional protections beyond those of language and education. While these cultural protections were rarely effective at protecting minorities residing in the rest of Canada, they protected French culture inside of Quebec.

The Atlantic region considered Confederation at the same time as the Province of Canada. In his sweeping chapter covering the reactions to Confederation in New Brunswick, Nova Scotia, and Prince Edward Island, Phillip Buckner highlights common fears including: lack of influence in a parliament dominated by Ontario and Quebec MPs, the possibility that the dominion would impose protectionist tariffs on the free-trading Atlantic colonies, and concerns that the new division of taxing powers would make it impossible for the provinces to fulfil their jurisdictional responsibilities. He reviews the unique combinations of arguments, outside developments, and political machinations that pro-Confederation leaders from each colony employed to sidestep or overcome these doubts.

With most of Atlantic Canada secured, Canada turned West to acquire the Hudson's Bay Company territories of Rupert's Land and the North-West as well as British Columbia. Barry Ferguson and Robert Wardhaugh explore Manitoba's entry into Confederation. The province's story, they point out, "is unique" because Manitoba "was the only province created against the designs of the Canadian government." In 1869, the Canadian government proposed the acquisition of the entire North-West Territories without consulting the region's inhabitants. Between September of 1869 and July of 1870, the Red River Settlement defended itself against Canada's acquisition first by denying Canada the right to administer the territory without legal agreement, and second by forming a Provisional Government that negotiated the terms for a new province. The Provisional Government's delegates thereafter forced a somewhat reluctant Canadian government to acknowledge their key demands, and the Manitoba Act of July 1870 recognized the institutions and ways of a French/English, Catholic/Protestant and Métis/Canadian province.

Recognition, however, came at the price of constitutional inferiority compared to the other provinces, a price that would later be extracted from Saskatchewan and Alberta. Recognition hastened treaty negotiations with First Nations on the Prairies between 1871 and 1877.

Next, Patricia E. Roy describes British Columbia's entry into Confederation. Canada's desire to extend its boundary to the Pacific Ocean as well as Britain's desire to rid itself of a colony with a contracting population, declining revenues, and mounting debts pushed the Pacific colony to consider three solutions to their problems: joining the United States, remaining a British colony, or becoming a Canadian province. The first was practical, but had limited support; the second appealed to the governor and his officials who controlled the Legislative Council; and the third was championed by two Canadian-born journalists, Amor de Cosmos and John Robson, who wanted responsible government. When the John A. Macdonald government completed arrangements to acquire Rupert's Land from the Hudson's Bay Company, it asked the British government to appoint a new governor of British Columbia and instruct him to encourage Confederation. This was done and the Legislative Council subsequently debated terms of union, sending three men to Ottawa to negotiate what they insisted must be "fair and equitable terms." Because Canada wanted British Columbia more than British Columbia wanted Canada, the new province secured virtually everything it wanted and British Columbia entered Confederation in 1871.

At the end of the nineteenth century, problems in administration of the North-West Territories led to the creation of the Yukon territory. The Yukon became a territory in 1898, in the midst of the Klondike Gold Rush, carved out from the North-West in a dispute between Regina and Ottawa over control of liquor revenues. The territory's constitutional evolution did not, therefore, follow Manitoba's example. By establishing the territory via an Order in Council, Sir Wilfrid Laurier's government avoided consulting local settlers and Indigenous Peoples. The Yukon was instead initially run by a council of government officials appointed in Ottawa. Although local protests resulted in the addition of elected council members and then the establishment of a wholly-elected Territorial Council in 1910, the subsequent collapse of the mining economy and the significant depopulation of the Yukon during the First World War led to the shrinking of both the elected Council and the territorial government. The battle for responsible

government in the Yukon would not be won until 1979.

Determining governance of the Prairies also required decades, and Bill Waiser contends that the establishment of Alberta and Saskatchewan was not simply a story of achievement or celebration. It was a protracted and, at times, acrimonious experience. As Canada looked past Manitoba in anticipation of "settling" the Prairies, Indigenous leaders sought to preserve their People's cultures and places in the region via Treaties. The Crown, eager to avoid costly "Indian Wars," gradually obliged this desire by negotiating treaties when settlement reached new Indigenous communities. As this settler population grew during the succeeding decades, it also wanted to become part of Confederation. This new population complained about federal indifference and neglect, the glacial speed of constitutional evolution, and the limited or restricting terms of provincehood. While the North-West Legislature demanded full jurisdiction in all areas of provincial jurisdiction, Catholic-Protestant debates about education rights and the federal government's determination to control Crown lands and natural resources ultimately produced one of the longest and heated debates in Canadian parliamentary history, delaying the date for the entry of Saskatchewan and Alberta into Confederation, which had to be pushed back for two months, from 1 July to 1 September 1905.

A further forty years would pass before Canada's final province joined Confederation. Newfoundland had sent delegates to Quebec City in 1864 and the proponents of union promoted Confederation as a way to deal with Newfoundland's isolation, its rampant poverty, its reliance on the fishery, and as a way to spur economic diversification. The anti-Confederates, as Raymond B. Blake notes in his contribution to this volume, ultimately carried the day. Confederation arose periodically after 1869, but it was not until the late 1940s that voters reconsidered joining Canada. The proponents of union once again argued that Canada would provide economic and social security and rid Newfoundland of its long history of underdevelopment and poverty, while the opponents of union fought again to maintain independence. In 1949, Newfoundlanders opted by a slim margin for the security of union with Canada.

Confederation's most recent addition came with the creation of Nunavut in 1999. The establishment of Canada's newest territory, P. Whitney Lackenbauer and André Légaré note, required decades of negotiations and spawned from concurrent Indigenous demands for greater

self-government. Between 1905 and the Second World War, the Canadian government showed little interest in the High Arctic. After the Second World War, however, the state extended its reach across the region in the name of strategic defence and economic development. Indigenous leaders soon organized, demanding greater self-government and a comprehensive land claims settlement. By reviewing the varied Indigenous proposals, government commissions, and negotiations, the authors explain how the creation of Nunavut laid the "foundation for new relationships" between the Crown, newcomers, and Inuit that provided the latter with "powerful mechanisms to control their future through a public territorial government."

Confederation's Common Pursuits

By concisely discussing the colonial, territorial, federal, and Indigenous aspirations, grievances, and jurisdictions for each province or region together, these chapters provide a primer for Canadians who want to better understand similarities and differences between provinces, regions, and Peoples. This book documents a common desire for autonomy and inclusion. At some point during each province's deliberations, debaters warned that other parts of the country would band together to force through policies that threatened their province's core interests. Nearly all groups, except for perhaps John A. Macdonald's followers, demanded guarantees for local autonomy within Confederation. Quebecers worried about protecting what would subsequently be called a "distinct society" and demanded measures that preserved their language, civil code, and culture. Atlantic Canadians desired federal support to preserve the continuation of local programs and, when federal offers were deemed insufficient, Newfoundland and Prince Edward Island rejected union. Prairie leaders sought provincial jurisdiction for Crown lands and natural resources. The territories pursued responsible and elected government for decades. Indigenous Peoples also tried to secure protections and safeguards from the Crown that would "assist them in making a transition from a declining hunting economy to one more compatible with the farming economy that was invading their territories."[27]

This push for autonomy, the failure of the Canadian government to honour its treaty commitments, and the degree of interprovincial and/or

Fig 1.1 Canada, with its current provincial and territorial borders.

federal-provincial distrust that permeated the debates about each province's addition to Confederation are not causes for cynicism about Canada's future. The founders of most federations choose this structure of government because, as political scientist Ronald Watts notes, it "provide[s] a practical way of combining . . . unity and diversity."[28] Instead, Canadians should recognize the achievement of creating a country distinct from the United States, with a high (though unevenly distributed) standard of living that provides some degree of local autonomy. Balancing inclusion and autonomy while correcting past wrongs will continue to be challenging and, at times, divisive. By updating our understanding of Confederation to encompass a series of agreements between Indigenous Peoples, the Crown, as well as colonial, territorial, provincial, and federal authorities, this

book seeks to inspire further discussions about Canada's founding and its future.

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9   George Woodcock, *Amor de Cosmos: Journalist and Reformer* (Toronto: Oxford University Press, 1975); Gordon Hawkins, *The de Cosmos Enigma* (Vancouver: Ronsdale Press, 2015).

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12   David Jay Bercuson, "Canada's Burden of Unity: An Introduction," in *Canada and the Burden of Unity*, ed. David Jay Bercuson (Toronto: Copp Clark Pitman, 1986), 3.

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21   See for example: Citizenship and Immigration Canada, "Discover Canada: The Rights and
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      discover.pdf.

22   Royal Commission on Aboriginal Peoples, "Partners in Confederation: Aboriginal Peoples,
      Self-Government, and the Constitution" (Ottawa: Canada Communication Group, 1993).

23   For discussion on "harmonizing" relations between Indigenous and non-Indigenous Peoples
      consult: John Borrows, *Freedom and Indigenous Constitutionalism* (Toronto: University of
      Toronto Press, 2016), 45.

24   Borrows, *Freedom and Indigenous*, 35.

25   J.R. Miller, *Compact, Contract, Covenant: Aboriginal Treaty-Making in Canada* (Toronto:
      University of Toronto Press, 2009), 300.

26   Truth and Reconciliation Commission of Canada, *Honouring the Truth, Reconciling for the
      Future*, 8.

27   J.R. Miller, *Shingwauk's Vision: A History of Native Residential Schools* (Toronto: University
      of Toronto Press, 1996), 98.

28   R.L. Watts, "Contemporary Views on Federalism," in *Evaluating Federal Systems*, ed. Bertus
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