

The Daniels Case: What Is It about?

On January 8, 2012 the Federal Court of Canada released its decision in the *Daniels* case. This decision has been discussed a great deal in the press and it deals with the question of federal jurisdiction over non-status Indians and Métis people. The decision can be downloaded from the internet at this address:

<http://decisions.fct-cf.gc.ca/en/2013/2013fc6/2013fc6.pdf>

The decision concluded that the federal government has jurisdiction under section 91 (24) of the *Constitution Act, 1867* over all “Indians” whether or not they have Indian status under the *Indian Act*. It also concluded that federal jurisdiction includes the Métis people.

Some observers and legal advisors have predicted that this decision may require fundamental changes to the approach of the federal government in its Aboriginal policies. However, the decision is very likely to be further appealed to the Federal Court of Appeal and then on to the Supreme Court of Canada. As a result, the trial decision is not likely to have any impact for several years the case winds through the judicial system.

With respect to the ongoing Algonquins of Ontario negotiations, the decision is likely to have little or no impact, since it does not affect the interpretation or application of Aboriginal or Treaty rights under section 35 of the *Constitution Act, 1982*. The Algonquins of Ontario negotiations are based upon assertions of Aboriginal rights and title by Algonquins and the provisions of the currently available Preliminary Draft Agreement-in-Principle extend to both status and non-status Algonquins.