

Citizenship and Aboriginal Self-Government

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Executive Summary

The primary goal of the paper is to explore how different ways of thinking about citizenship might influence our thinking about Aboriginal self-government and about the relationships between Aboriginal people and the people and governments in Canada with which they have some connection. At the same time, the paper explores how thinking about Aboriginal self-government might contribute to a reconceptualization of citizenship.

The idea of Aboriginal self-government raises a number of interesting questions for the concept of citizenship. For example, how can people be citizens of two political communities (an Aboriginal community and Canada) at the same time? What ought to be the relationship between these two forms of citizenship? Should Canadian citizenship mean the same thing to all who possess it?

The first part of the paper describes the basic approach and identifies three presuppositions. I adopt the approach of normative political theory, asking questions about the nature of political community and the relation between the community and the people who belong to it. Citizenship has become a central concern in recent political theory, and this literature can help to shed light on the problems associated with constructing a conception of citizenship that can make sense in the context of the complex political relationships that Aboriginal self-government would create.

The paper proceeds in the context of three presuppositions: (1) that most Aboriginal people living within the geographical territory identified as Canada will continue to be legal citizens of Canada, whatever forms of Aboriginal self-government emerge from current and future negotiations; (2) that Aboriginal self-government is, in principle, morally legitimate and desirable; and (3) that an inquiry informed almost entirely by western political theory is useful.

The second part of the paper provides an analytical framework for thinking about citizenship as different ways of belonging to a political community. I distinguish three dimensions of membership: (1) the legal dimension, involving the legal rights and duties of members; (2) the psychological dimension, involving feelings of emotional attachment, identification, and loyalty; and (3) the participatory/representational dimension, involving issues of agency, collective action, and legitimacy. I note that the three dimensions of citizenship interact with one another in shaping our judgements about what is just and appropriate in

relations between members of a political community. I also identify a category of domains of membership, to draw attention to the fact that people may belong to more than one political community at the same time and to the fact that communities may overlap in various ways.

The third section takes note of the historical context of past talk about citizenship, because that is likely to shape the ways in which any new discussion is heard. For Indians, in particular, talk about inclusion as citizens has been intimately associated with policies of forced assimilation. This seems likely to make Indians wary about what it might mean to be included as Canadian citizens and dubious about the possibility of reconciling Canadian citizenship and Aboriginal self-government.

Section four describes three conventional unitary models of citizenship, with particular emphasis on the model of the nation-state. In the modern world, talk about citizenship sometimes presupposes, as a background assumption, an idealized (and misleading) conception of the nation-state as an administratively centralized, culturally homogeneous form of political community in which citizenship is conceived primarily as a legal status that is universal, equal and democratic. In this idealized conception, the nation-state is the only locus of political community that really matters, and citizenship just means membership in a nation-state. Everyone in the world is supposed to belong to one such state and only one. Although the state may delegate its authority to sub-units, it retains ultimate authority because it exercises a legitimate monopoly of violence over the territorially based society that it governs.

The second unitary model of citizenship is one that articulates the ideal of the welfare state as a form of political community committed to providing equal rights to all and to including social and economic entitlements in the definition of rights. The third unitary model of citizenship draws on the civic republican tradition to emphasize the active, participatory aspects of citizenship.

Each of these three models of citizenship is committed to an ideal of *equal* citizenship and, in the name of equal citizenship, provides grounds for criticizing policies and practices that have marginalized Aboriginal people. In that respect, these models can make a positive contribution. But each of them would entail the subordination and depoliticization of any distinct Aboriginal identity for the sake of the unity of the political community as a whole. While some liberal interpretations of the nation-state ideal open the door to policies of multiculturalism and do not require cultural assimilation as a condition for the acquisition of full citizenship, they do

not provide a basis for the stronger claims of aboriginal self-government.

The fifth section describes recent theoretical work by three philosophers — Iris Marion Young, Will Kymlicka, and Charles Taylor — that challenges the conventional models of unitary citizenship. This section explores the implications of their theories for the questions about citizenship that emerge from Aboriginal self-government.

Young argues that a genuine commitment to the inclusion of all in public deliberation requires that cultural differences not be suppressed or ignored but acknowledged and respected. This provides an important critical perspective on conventional assumptions about the relationship between justice and equal citizenship in Canada, challenging the notion that a unified Canadian citizenship can be based on a shared commitment to common principles of justice, especially as these have been expressed and embodied in institutions like the *Canadian Charter of Rights and Freedoms*.

Kymlicka extends Young's case for differentiated citizenship, distinguishing among various ways of taking cultural differences into account and defending the need for self-government rights in cases involving minority nations like Aboriginal peoples in Canada. Taylor develops a vision of "deep diversity" that he suggests would permit different people to belong to Canada in different ways, thus providing "more than one formula for citizenship" at the same time. For Aboriginal people, this might mean that their Canadian citizenship would be mediated primarily by their membership in their Aboriginal communities, communities that themselves would be part of Canada.

In the last two sections I turn to an examination of existing institutions and practices that embody elements of differentiated citizenship. I observe first that dual citizenship is a growing phenomenon in all western states and that, despite theoretical objections about overlapping jurisdictions and conflicting loyalties, it does not normally create any serious problems in practice. Hence the objection that Aboriginal self-government would create a kind of dual citizenship may be less serious than it sounds. Second, I note that the actual exercise of political authority, both in federal systems and in supranational units like the European Community, does not fit the conventional unitary model of state sovereignty and that this opens up the possibility of thinking about sovereignty as a bundle of rights and duties that can be parcelled out in different ways to different collective actors, not just to states. Thus Canada's sovereignty would not necessarily crumble and a common Canadian citizenship would not necessarily dissolve with

the institution of Aboriginal self-government.

Finally, I explore the possibility that Quebec's experience can offer a useful model in thinking about the implications of Aboriginal self-government for issues of citizenship within Canada. I take up five sets of issues: (1) international recognition; (2) language; (3) laws, especially the Charter; (4) internal unity; and (5) Canadian identity and representational legitimacy. In each case I note that all three of the dimensions of citizenship are involved and that Quebec's situation is similar in some respects and dissimilar in others to what might be anticipated to be the situation of Aboriginal governments. Overall, I emphasize the normative significance of the cultural differences between Aboriginal people and other Canadians. I argue that the only way to create a genuine basis for a shared identity and ultimately for a shared citizenship is to construct institutions and modes of interaction that take our differences from one another seriously and treat them with respect as starting points for a common enterprise.

Citizenship and Aboriginal Self-Government

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Introduction

The primary goal of this paper is to explore how different ways of thinking about citizenship might influence our thinking about Aboriginal self-government and about the relationships between Aboriginal people and the people and governments in Canada with which they have some connection. At the same time, the paper explores how thinking about Aboriginal self-government might contribute to a reconceptualization of citizenship.

The idea of Aboriginal self-government raises a number of interesting questions for the concept of citizenship. For example, how can people be citizens of two political communities (an Aboriginal community and Canada) at the same time? What ought to be the relationship between these two forms of citizenship? Should Canadian citizenship mean the same thing to all who possess it?

The Approach of the Paper

In exploring this topic, one could focus on questions about jurisdiction and authority with respect to such matters as taxation, political participation, civil rights, and criminal law. These are all important issues that affect the position of individuals as citizens, but I propose to think about the topic from a somewhat different perspective, the perspective of normative political theory. From this perspective the questions that come to the fore are questions about the nature of political community and the relation between the community and the people who belong to it.

Citizenship has become a central concern in recent political theory, and while much of this literature does not deal directly with the situation of Aboriginal people in Canada, it opens up avenues of inquiry that will, I believe, shed light on the problems associated with constructing a conception of citizenship that can make sense in the context of the complex political relationships that Aboriginal self-government would create. And a theoretical exploration of the concept of citizenship in the context of Aboriginal self-government will have significant implications for the sorts of concrete problems mentioned at the beginning of the previous

paragraph.

In the modern world, talk about citizenship sometimes presupposes, as a background assumption, an idealized (and misleading) conception of the nation-state as an administratively centralized, culturally homogeneous form of political community in which citizenship is conceived primarily as a legal status that is universal, equal and democratic. In this idealized conception, the nation-state is the only locus of political community that really matters, and citizenship just means membership in a nation-state. Everyone in the world is supposed to belong to one such state and only one. Although the state may delegate its authority to sub-units, it retains ultimate authority because it exercises a legitimate monopoly of violence over the territorially based society that it governs.

This picture of citizenship was never realistic or adequate for any society, and less so for Canada than most. In recent years, political theorists have begun to challenge this conception, emphasizing in particular the need to recognize differentiated forms of citizenship. This approach emphasizes the need to take account of history and of the different situations of groups in a society in thinking about how citizenship should be conceived in a particular context. At the same time, the approach seeks, by recognizing difference, not to abandon but to fulfil a commitment to equality. I propose to use this recent literature to create a framework for thinking about the topic of citizenship and Aboriginal self-government and for critically discussing the existing literature on the topic.

Three Presuppositions

This paper contains three presuppositions that need to be identified in order to clarify the parameters of the inquiry. First, I assume that most Aboriginal people living within the geographical territory identified as Canada will continue to be legal citizens of Canada, whatever forms of Aboriginal self-government emerge from current and future negotiations. Second, I assume the moral legitimacy and desirability in principle of Aboriginal self-government, while recognizing that the precise form it takes may vary from one context to another. Third, I assume the usefulness of an inquiry informed almost entirely by western political theory. Each of these presuppositions requires unpacking.

Common citizenship

First, despite the sorry historical record (which I outline below) that associates citizenship with assimilation in Canada, I assume that it makes sense to explore what meaning Canadian citizenship might have and should have for Aboriginal peoples, since it is a legal status that they will possess in some form. If Aboriginal self-government is to be exercised within Canada (even assuming that its moral legitimacy is derived from an inherent right of self-government rather than from the Canadian government), it is important to reflect upon what being within Canada means both to Aboriginal people and to non-Aboriginal people and to consider what Canadian citizens share in common and what they do not.

I do not assume that the tensions between equality and difference are always easy to resolve or that citizenship will be regarded as a benign concept by those committed to Aboriginal self-government. With the defeat of the 1969 White Paper and the recognition of Aboriginal rights in the *Constitution Act, 1982*, including the explicit adoption of the category of Aboriginal peoples as one including the Inuit, Métis, and Indian peoples of Canada, the idea that Canadian citizenship requires assimilation has been officially repudiated.ⁱ Even so, as the focus of debate has shifted to the concept of Aboriginal self-government, talk about Canadian citizenship often seems to emerge as an objection to, or a constraint upon, any vision of Aboriginal self-government. (Gibbins and Ponting 1985; Cairns 1993b) It is essential, of course, to address the questions and concerns that have been raised in this way, but I am hopeful that the concept of citizenship can make a constructive and creative contribution to the project of thinking about Aboriginal self-government rather than simply serve as a source of doubts and worries.

The independence alternative: It would be possible to reject my working assumption that most Aboriginal people are and will continue to be Canadian citizens. Billy Two Rivers, Chief of the Kahnawake Band Council, did precisely that in an oft-cited statement made at the First Ministers' Conference in March 1984:

The [Haudenasaunee] Six Nations Confederacy have no desire to separate from Canada since the Confederacy have never been part of Canada... the new Constitution that has been granted to the Parliament of Canada by Great Britain will have no jurisdictional authority within our territories or over our people. Our people are citizens of our nation and do not seek citizenship within the nation of Canada. (quoted in Gibbins and Ponting 1985, p. 181)

My paper presupposes that most Aboriginal people do not share this position, at least if it is taken literally as a denial of legal as well as affective bonds with Canada as a political

community.ⁱⁱ I do not intend this as a challenge to the position taken by Chief Two Rivers. Rather the point is that, if his position were widely held and actively pursued through the mechanisms of international law, it would make no sense to take a putatively common Canadian citizenship as one focus for the discussion of Aboriginal self-government, though we could, of course, still explore legal and other relationships between the Canadian government and Aboriginal governments or between the Canadian people and Aboriginal peoples.

On the other hand, in assuming that most Aboriginal people are and will continue to be Canadian citizens, I do *not* mean to imply that Aboriginal peoples have (or ought to have) no access to international forums independent of Canada or that they identify closely with Canada as a political community. Many Aboriginal people may experience their continued connection to Canada as a regrettable necessity. I explore these issues below.

Aboriginal self-government

There are many ways in which Aboriginal rights of self-government might be articulated, evaluated, and defended. (Macklem 1993) I will not pursue that discussion here, however. Rather I want to assume a commitment to Aboriginal self-government in principle in order to consider how such a commitment might affect our thinking about citizenship, especially Canadian citizenship, and in turn how different conceptions of citizenship might fit (or conflict) with Aboriginal self-government.

Aboriginal self-government can take many different forms, and, given the variety of circumstances in which Aboriginal people find themselves, many different ways of institutionalizing Aboriginal self-government will be required to meet the needs of Aboriginal people. To take one important example, the vast majority of Aboriginal people live outside reserves or other territories likely to fall under the administrative control of Aboriginal governments. Many of them live in urban areas. Their relationships to the federal and provincial governments in Canada may be very different from those of Aboriginal people living on Aboriginal land. Nevertheless, I will focus primarily (not exclusively) on the latter.

I am concerned in this essay with a theoretical investigation of conceptions of citizenship. I want to focus on the strongest possible model of Aboriginal self-government short of independence because that is the context that poses the strongest possible challenge to conventional understandings of citizenship. If, as I think, it is possible to reconcile the strongest

form of Aboriginal self-government with an attractive conception of Canadian citizenship, then *a fortiori* it should be possible to reconcile other forms of Aboriginal self-government with Canadian citizenship. Thus the conception of differentiated citizenship that I will describe and defend here should be regarded as an ideal type, describing one end on a continuum of possible relationships between Aboriginal people and Canada. There might be many hybrid forms of citizenship, and many, perhaps most, Aboriginal people will find themselves somewhere along the continuum rather than at the end that I describe. But for theoretical purposes, it is especially important to analyze this end point.

A non-Aboriginal perspective

Any non-Aboriginal person like me who writes about the topic of Aboriginal self-government is bound to think about the problem of perspective. The concept of citizenship has a long history in western political thought and is intimately associated with other concepts such as justice, democracy, and political community. The literature on which I propose to draw grows entirely out of this tradition. Given the differences between the cultures of Aboriginal peoples and the cultures of non-Aboriginal peoples, is it appropriate for me to offer a normative analysis that draws exclusively on non-Aboriginal traditions of thought?

Certainly not, in my view, if it is put forward as the one right way to think about these issues. But on the other hand, non-Aboriginal Canadians cannot and should not avoid thinking about what Aboriginal self-government implies for the nature of the Canadian political community as a whole. In thinking about alternative ways of living together, there are characteristic puzzles, problems and concerns that arise for people who share the western tradition of political thought (though, of course, there are many differences and disagreements within that tradition). Those who share the (various) traditions of Aboriginal thought may identify a different set of puzzles, problems, and concerns. The goal of my reflections therefore is not to use the concept of citizenship to provide definitive answers to questions about how Aboriginal and non-Aboriginal people should live together in Canada, but to contribute to a conversation in which Aboriginal authors also participate from their own perspectives. I am assuming that the Royal Commission provides a context for just such a conversation.

A Framework for Thinking About Citizenship

I said at the beginning that the paper would focus on the questions raised by the fact that, with the establishment of self-government, Aboriginal people would be members of two political communities at the same time. Actually, this way of posing the problem greatly oversimplifies the issues, because there are different ways to belong to a political community and different ways to identify the political communities to which Aboriginal and non-Aboriginal people in Canada belong. I use the term *dimensions of membership* for issues of the first sort, that is, questions about how one belongs to a political community. I use the term *domains of membership* for issues of the second sort, that is, questions about the locus of one's political community or about which political communities one belongs to.

Dimensions of Membership

I identify three ways of belonging to a political community, which I will call the legal dimension, the psychological dimension, and the participatory/representational dimension. These three dimensions interact with each other to shape our sense of how people do and should belong to a political community.

The legal dimension

One way to belong to a political community is to possess the legal status of a citizen. One can ask a number of questions about this legal dimension of membership. What are and what ought to be the legal rights and duties of a citizen? Does an ideal of equal citizenship entail that all citizens should have the same rights and duties? If not, how and why may they differ? I will try among other things in this paper to say something about what different ways of institutionalizing Aboriginal self-government might imply for differences between the rights and duties of Aboriginal citizens of Canada and the rights and duties of other citizens and what sorts of differences would appear justifiable and what would not.

The psychological dimension

Another way to belong to a political community is to feel that one belongs, to be connected to it through one's sense of emotional attachment, identification and loyalty. We might call this the psychological dimension of membership.

Typically perhaps people who have the legal status of citizens are the ones who feel this sort of psychological connection to a political community, but it is possible for people who are

not legal citizens to have similar feelings. For example, the *Indian Act* rule that Indian women lost their Indian status if they married men without such status followed a widespread practice among western states of making the citizenship status of women follow that of their husbands. Presumably many of the women who lost their legal standing as members in this way nevertheless retained a much more powerful sense of identification with and loyalty to their communities of origin than to the ones they had been required to join.

If some people without legal status can feel attachment to a political community, it is also possible that people who do have the legal status of citizens may feel very little attachment to or emotional identification with a political community to which they belong. At the least one can say that the degree of attachment that legal citizens feel may vary widely. It is this variability that poses the most urgent questions for this paper.

How does this variability of psychological attachment matter, if at all? Does the possession of legal citizenship entail any (moral) obligations with respect to psychological citizenship? Should (or may) a political community try to cultivate a sense of loyalty and attachment among its citizens and, if so, by what means? How (if at all) should the degrees and patterns of communal attachment among legal citizens affect the institutional arrangements of the political community? Should the rights and duties of citizens be connected in any way to their degree of attachment to the community? What if people belong to more than one political community at the same time and feel very different degrees of attachment or identification?

The last question has a particular urgency for the project of this paper. It seems plausible to suppose that many Aboriginal people feel alienated from, or at best weakly attached to, Canada as a political community and that they feel a much stronger sense of connection to and identification with the particular Aboriginal community to which they belong. How, if at all, should that affect our judgements about appropriate political institutions within Canada?

The participatory/representational dimension

The third dimension of membership to which I want to draw attention is not so easily labelled as the first two. It concerns the issues of agency and collective action. One may belong to a political community by participating in its collective decision making and/or by seeing the leaders of the community as legitimate representatives. This form of belonging combines elements of the first two but goes beyond them by its emphasis on action. I am tempted to call it the political

dimension of membership, but it seems more appropriate to regard political membership as a synonym for citizenship and thus to reserve that term for the overall subject of the inquiry rather than treating it as one of the dimensions of citizenship. So, I call this the participatory/representational dimension of membership.

Focus on this dimension of membership draws our attention to the different ways that political communities may arrive at collective decisions and the different forms that participation can take. It also draws our attention to the question of who is entitled to speak for a political community and authorized to act on its behalf. Thus, for example, under this heading we can consider possible differences between the modes of political participation characteristic of the Canadian political system as a whole and possible modes of participation in Aboriginal governments drawing upon different cultural traditions. (Arnott 1992) Similarly, we can consider questions about representational legitimacy with respect to both Canadian public officials and Aboriginal leaders. On such questions, the three dimensions of membership will interact with one another, so that what we think about who is entitled to speak for whom will depend in part on the distribution of legal rights and obligations but also, perhaps, on the degree of identification the people being represented have with one or another community.

Domains of Membership

So far I have talked primarily about Aboriginal citizenship and Canadian citizenship, but that actually oversimplifies the issues. The issue here is how one identifies the parameters of the political community (or political communities) to which one belongs. Thus, if Aboriginal governments constitute a third order of government along with the federal and provincial governments, Aboriginal people — at least, many of them — will have some significant relationship with each of these three orders, while most other Canadians have some significant relationship with a province and with the federal government.

Each of the dimensions of citizenship I have mentioned may be relevant to one's relationship to these orders. Thus, for example, many people in Quebec identify Quebec as their primary political community, the one to which they feel the strongest ties though they are also citizens of Canada. The connection of Aboriginal people to Aboriginal governments may affect the nature of their relationship to the other two orders along all three of the dimensions of citizenship.

I use the term *domains of membership* to identify the implications of the fact that people may belong to more than one community at once, so that questions about the dimensions of membership interact not only with one another with respect to a single community but also across the different communities to which people may belong.

But there is a further complication with respect to Aboriginal governments, because there may be overlapping domains within the third order constituted by Aboriginal governments. Many, perhaps most, Aboriginal people experience their primary communal identification at the level of the band or at least some collectivity smaller than the Aboriginal community as a whole. This is true even of Aboriginal people who live in urban areas, although the character and strength of the communal identification of Aboriginal people living outside Aboriginal territory probably varies much more widely than it does among those who live on Aboriginal land.ⁱⁱⁱ In constructing institutions of Aboriginal self-government, it seems appropriate and likely that greatest emphasis will be placed upon empowering primary communities of identification, though what that entails for Aboriginal people who live outside Aboriginal territory is bound to be both complex and contested. This illustrates the importance but also the difficulty of paying attention to the psychological dimension of membership and of considering the possible connections between psychological membership and legal membership.

At the same time, there will be forms of collective Aboriginal organization that transcend these primary communities of identification (however those are constructed legally). Some of these may well reflect existing or past ways Aboriginal peoples have organized themselves collectively on a larger scale. There is a rich diversity of cultural approaches to draw upon here, as, for example, in the Confederacy and Grand Council systems that characterized groups like the Iroquois and Ojibwa. On the other hand, economies of scale and the requirements of dealing with federal and provincial governments both administratively and politically will make it necessary for Aboriginal peoples to rely upon existing and new regional and pan-Canadian organizations that are not rooted in the same way in cultural traditions. In such cases, questions about the participatory/representational dimension of membership are apt to arise with respect to these larger organizations. Will Aboriginal people have a direct voice in the selection of leaders for such organizations and in the discussion of their policies, or will all connections with these organizations be mediated through the primary communities? If the former, then a stronger sense of community and membership may emerge with respect to the wider Aboriginal community or

some parts of it.

This points to the possibility of overlapping forms of Aboriginal membership and to the possibility that psychological membership may be fluid and shifting. The legal dimension of membership cannot be as shifting and fluid as the psychological one, but the appropriateness of establishing legal rights and obligations with respect to a given domain (i.e., a particular community) may depend in part on the rights and obligations established with respect to others, and the appropriateness of the overall set of arrangements will presumably have some relationship to the kinds of identification and loyalty people feel with respect to different communities. In that sense, some of the puzzles about what membership in the Canadian political community means may be reproduced (in somewhat different fashion) within the Aboriginal community.

In sum, in thinking about citizenship and Aboriginal self-government, one has to consider multiple possible loci of authority and identification. While this paper focuses primarily on the question of how the existence of Aboriginal governments linked to primary communities of identification should affect our thinking about the nature of Canadian citizenship, I try to keep these other aspects in view as well.

Historical Context^{iv}

Even a theoretical investigation such as this one has to pay attention to the way concepts have been used historically, because this is bound to shape the way a new discussion of those concepts is heard. With respect to the concept of citizenship, it is not only the conventional conception of citizenship but also the particular history of Indian policy in Canada that is bound to make Indians especially wary of what it might mean to be included as Canadian citizens and dubious about the possibility of reconciling Canadian citizenship and Aboriginal self-government. For Indians, inclusion as citizens has been intimately associated with policies of forced assimilation.

For most of the nineteenth and twentieth centuries, Indians were treated more as subjects than citizens. Enfranchisement and full citizenship status were provided initially as a reward for becoming 'civilized', that is, for adopting Euro-Canadian values and practices and repudiating Indian culture and identity.^v Between 1857 and 1876, however, only one Indian was enfranchised under these provisions. So, more coercive techniques were employed, most notably the introduction of a system of compulsory residential schools in which Indian culture was

severely repressed. Despite this, few Indians, even among those educated by Euro-Canadians, were willing to trade their Indian status and give up their links to their Indian communities for the sake of full Canadian citizenship. Only 250 Indians sought enfranchisement between 1857 and 1920.

Frustrated by this resistance, the government in 1920 made it possible to enfranchise Indians and thus strip them of their Indian status without their consent. The goal of this policy was consistent with what had preceded:

Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic. (D.C. Scott, deputy minister of Indian affairs, 1920, as quoted in Miller 1991, p. 207)

Thus, for a long period of Canadian history, full Canadian citizenship was treated as incompatible with a distinct Indian identity.

In 1960 the Diefenbaker government extended the franchise and full Canadian citizenship to Indians without abolishing special Indian status. This policy reflected a somewhat more ambivalent stance toward Indian culture and community than previous policies. On the one hand, the denial of the franchise to status Indians had been premised explicitly upon the inferiority of Indian culture and the subordinate status of Indian communities; removing this stigmatizing difference without requiring the abandonment of Indian culture and community could therefore be interpreted as a move toward an egalitarian version of differentiated citizenship that would grant equal respect to Indians without denying their distinctive position in relation to the rest of Canadian society.

On the other hand, Indians did not seek this extension of the franchise, nor were they consulted about it. Moreover, it has not been entirely benign in its effects. The fact that Indians now have the right to vote like other citizens has the effect of legitimating, at least in the eyes of some, the authority of elected officials to make policies that affect Indians, while the relatively small and dispersed character of the Indian electorate ensures that they will have little actual effect on electoral outcomes.^{vi} Furthermore, as Boldt points out, the extension of the franchise

lends symbolic legitimacy to the fiction that Indians have given democratic consent to Canadian sovereignty and citizenship, and that their primary commitment is to the Canadian regime. Thus it undermines Indian claims to "peoples' rights" under the U.N. charter. (Boldt 1993, p. 83)

This is not just a hypothetical point. Canada has explicitly challenged attempts by Indians to use United Nations forums for indigenous peoples on the grounds that Indians are Canadian citizens.

(Boldt 1993, p. 48) Thus, whatever its original motivations, the extension of the franchise and full Canadian citizenship to Indians has been used strategically by the Canadian government to protect itself against challenges from Indians.

Subsequent official discussions of Indian policy during the 1960s reflected the same ambiguous messages about the implications of Canadian citizenship for Indians. The Hawthorn-Tremblay report in 1966 argued for a positive reconciliation of Canadian citizenship and Indian status, coining the phrase "citizen plus" to communicate the conviction that Indians should have all the normal entitlements of Canadian citizenship and some distinctive additional ones as well directly related to Indian status (and using the phrase "citizens minus" to characterize the situation of Indians under previous policies). By contrast, the Trudeau White Paper of 1969 proposed to abolish all legal distinctions between Indians and other Canadians on the grounds that such distinctions were incompatible with liberal egalitarian and democratic values. Thus the White Paper once again linked Canadian citizenship with assimilation.

In sum, much of Canadian Indian policy has had as its fundamental goal the transformation of Indians into Canadian citizens like any others. With this background, it would not be surprising to find Indians committed to self-government wary and sceptical about the positive insights to be gained from reflection on the concept of citizenship. For Inuit and Métis, the concept of citizenship may carry less historical baggage simply because they did not have the kind of distinct *legal* status that Indians possessed in the Canadian polity, so that the concept of citizenship is not so intimately associated for them with attempts to eliminate their distinctive identity as peoples.^{vii}

Unitary Models of Citizenship

Citizenship and the Nation-State

In the modern world the phrase 'political community' has been associated almost exclusively, at least until recently, with the nation-state. The idealized picture of political community that the term nation-state evokes is one that is exclusive and comprehensive in the sense that everyone living permanently in the community belongs there by virtue of being both a citizen and a member of the nation. Political order should be based on the principle one nation, one state.

The state

Consider the state component of this ideal first. On the conventional view, we live in a world that is divided into sovereign states, each possessing exclusive jurisdiction over a particular piece of territory and over the people within that jurisdiction. In this account, sovereignty has both an external and an internal face. The state is sovereign with respect to other states in the sense that no state can legitimately interfere with what goes on within another's jurisdiction. Though what counts as interference is often contested, this principle normally precludes the use of force by one state against another. The state is assumed to be sovereign internally in the sense that it has an exclusive monopoly on the legitimate use of force within its jurisdiction. While the right to exercise such force may be delegated, ultimate authority over its use remains with the state. In short, it is a conception of political community in which political authority is, at bottom, centralized, unified and exclusive.

The nation

Now consider the nation component. On the nation-state model, the people governed by a state are not just a collection of individuals who happen to be present there. Rather they are a people, *a nation*. The legitimacy of the authority of the state is derived from the fact that it is exercised in the name of and on behalf of the nation. (Democratic versions also tie the legitimacy of authority to participation, a point to which I will return.)

How the nation is to be conceived and who belongs to it are issues that can be contested. On the dominant view, the nation is understood to be a cultural community in a strong sense. In other words, it is a community whose members share a language, a history, and a highly articulated way of life. On this view, the nation exists prior to the state, and the moral legitimacy of the state depends on the state's capacity to give political expression to this pre-existing cultural community and to serve as its authentic voice and representative. On this view, there ought to be a deep congruence between cultural membership (nation) and political membership (state). Citizens of the same state should ideally be members of the same nation, if not by birth (as is preferable) then by transformation through assimilation. In this conception, one of the central functions of the state is to represent, promote and protect the shared historical national culture.

A different conception, with deep roots in the liberal tradition, seeks to sever the connection between state and historically specific national cultures altogether. This view, which has particular resonance for countries of immigration, holds that the nation ought to be conceived

politically and democratically. The nation is characterized by a shared culture, but this is a shared *political* culture, a shared commitment to political principles, norms and institutions. All citizens ought to belong to the nation, but this implies nothing about one's way of life outside the public sphere. In this liberal conception, the state ought to be concerned with culture only in so far as that is necessary for the maintenance and reproduction of liberal political institutions (and even those concerns are constrained in various ways by the rights of individuals to religious, intellectual, and political freedom). Other aspects of culture are relegated largely to the private realm.

On this account of the nation, then, the morally relevant cultural community is not one that exists prior to the state but rather one that is intertwined with the state, giving the state a particular form and character. Nation and state are mutually constitutive. Each is defined in terms of the other, and the traditions to which one must be true are political traditions.

Implications for citizenship

This (double) vision of the nation-state has important implications for a conception of citizenship, regardless of which understanding of the nation is adopted. In the first place, it monopolizes the meaning of citizenship. As conventionally understood, citizenship just means membership in a nation-state. Alternative ways of thinking about citizenship and about political community are screened from view, if not logically excluded.

In the second place, the idea of the nation-state establishes citizenship as a universal ideal within the confines of a given society. Citizenship ought to be co-extensive with membership in the society. Citizens ought to be free and equal before the law and to possess a right to participate in political decisions in some form, usually through elections. Any formal version of second-class citizenship that marks some citizens as inferior to others is incompatible with this ideal. Citizenship is assumed to matter, in the sense that it provides rights and privileges that non-citizens do not enjoy (and perhaps entails duties that non-citizens are not expected to fulfil). Citizenship is also assumed to involve some sort of symbolic identification with, and emotional attachment to, the state. (Brubaker 1989)

Citizenship and the Welfare State

Two other influential conceptions of citizenship deserve mention here because they seem to

entail a unitary understanding of political community and citizenship, at least as an ideal, and each has particular relevance to a discussion of citizenship and Aboriginal self-government.

The first is a conception of citizenship that emphasizes the content and distribution of legal rights. It received its most famous exposition in T.H. Marshall's essay, "Citizenship and Social Class." (1950) Marshall focused on the evolution of citizenship in British history, placing particular emphasis on the new understanding of citizenship that emerged with the development of the welfare state. As Marshall saw it, citizenship was conceived in terms of rights throughout British history, but the rights were expanded and distributed to more and more of the population over time. Thus full citizenship was seen as the basis for entitlement to civil rights in the eighteenth century. Political rights were added in the nineteenth century, and social rights — free public education, unemployment insurance, old age pensions, and the other sorts of entitlements provided by the welfare state — were added in the twentieth. Over the same periods, the definition of who was a full citizen and hence entitled to these rights was expanded to incorporate previously excluded groups: the working class, women, religious minorities, and so on.

On Marshall's account, citizenship properly understood entails a commitment to equality — not just formal equality but substantive equality — so that every citizen can feel himself or herself to be a full member of society with full access to the opportunities for human self-realization that the common life of the society makes possible. The development of the welfare state, Marshall thought, had given the fullest expression so far to this ideal.

Citizenship and Civic Republicanism

The third conception of citizenship has ancient roots but has emerged in recent years in large part as a reaction against the Marshallian conception of citizenship as rights. It objects that this Marshallian conception of citizenship as a bundle of entitlements treats the political community as a mere instrument for the achievement of interests and purposes derived outside of or at least apart from the community. Civic republicans offer instead a vision of citizenship that emphasizes duties rather than rights, active participation rather than passive entitlements. They view participation in the shared public life of a political community as a fundamental human good, something to be fostered and encouraged in all citizens, not just one possibility among others to be left open to the preferences of individuals as they happen to develop. Traditional civic

republican theorists like Aristotle and Rousseau saw ethnic and cultural homogeneity as a precondition for strong civic bonds and public spiritedness. Their assumption was that people must have a powerful sense of what they share in common for them to be willing to put the community first. Contemporary civic republicans disavow this sort of exclusiveness, but they do see a powerful, particularistic attachment to one's own political community as a social precondition for the kind of participatory, active citizenship they advocate.

Implications for Aboriginal Citizenship

These three conceptions of citizenship are different from each other, but each builds upon a unitary model of the political community. Thus what the three conceptions have in common is that all would entail the subordination and depoliticization of any distinct Aboriginal identity for the sake of the unity of the political community.

I do not want to overstate their negative implications. Each is committed, in different ways, to an ideal of *equal* citizenship and, in the name of equal citizenship, provides grounds for criticizing policies and practices that exclude or marginalize distinct groups of citizens. Many of the injustices that Aboriginal people have suffered in Canadian society have come precisely from the fact that they have not been treated as equal citizens, however equal citizenship is defined. The widespread denial of basic rights — to say nothing of equal opportunity — for Aboriginal people in education, in health care, in the economy, in the criminal justice system, and in many other spheres has been too well documented to repeat here.

If the requirements of equal citizenship were met, *even on the terms of these unitary conceptions*, the conditions under which Aboriginal people live in Canada would be vastly better than they are. It may well be the case, as many advocates of Aboriginal self-government suspect, that the Canadian government will never meet even its own standards for equal citizenship, but that is no reason to abandon entirely the critical perspective those standards bring to bear.

Whatever form a non-unitary conception of citizenship might take — a topic to which I will turn shortly — it will not legitimate the fundamental violations of equal citizenship that Aboriginal people now suffer so frequently. (The Donald Marshall, Jr. case is only one among many obvious recent examples.) In short, these unitary conceptions of equal citizenship provide a critical standard that should not be abandoned entirely in the search for an alternative conception of citizenship that respects Aboriginal difference more fully. I hope to show that it is

possible to preserve elements of this unitary ideal of equal citizenship while transcending it in some respects.

In saying that these conceptions of citizenship require the subordination and depoliticization of Aboriginal identity, I do not mean to imply that all of them require full cultural assimilation. That might be true of the traditional interpretation of the nation (which may well have been one of the elements underlying policies toward Indians and toward immigrants for much of Canadian history). It might also be true, to some extent, of the civic republican tradition. But what I have called the liberal version of the nation-state, the one that defines the nation in terms of its political culture and institutions, is at least open in principle to cultural differences. This is evident in Canada in the policies that go under the heading of multiculturalism, a concept based explicitly on the repudiation of cultural assimilation as an ideal. One fundamental problem with multiculturalism, however, is that it treats culture as a private matter. To say that is not to say that culture need be unimportant. After all, many people find the centres of their lives in the private sphere — in family life, in religious commitments, and so on. But what treating culture as a private matter means is that it is not consequential in the public sphere, that it is irrelevant to one's status as a citizen.

It seems to me that there are at least two objections to this from an Aboriginal perspective. First, one might object that government structures, practices and institutions are not as culturally neutral as this account suggests. In fact, they reflect the dominant, historically specific Anglo-Canadian culture in profound ways that make it particularly alien to those who do not share the western liberal tradition. Second, and perhaps even more important, treating culture as a private matter provides no basis for understanding the claim that only a system of Aboriginal self-government can meet the needs of Aboriginal peoples, because they want governments with which they can identify, that are founded upon and give expression to distinct Aboriginal cultures and identities.

As the reader may notice, this last claim implicitly evokes the traditional conception of the nation-state as a source of legitimation for Aboriginal governments. Aboriginal people believe a system of Aboriginal self-government will be more legitimate and more satisfactory to Aboriginal people than the existing one, in part because they understand themselves as belonging to nations in this first sense — to peoples with highly developed, richly differentiated languages, histories, customs, practices, understandings and ways of life — and because they believe

Aboriginal governments will be able to reflect and express the distinctive cultures of the peoples they govern.^{viii}

I might also add that the civic republican ideal seems closer to Aboriginal conceptions of community than ones like Marshall's that focus exclusively on rights and presuppose an instrumental conception of community. At least some Aboriginal accounts emphasize duties rather than rights, assume the desirability of participation in the public life of the community, and see the community as a source of meaning and identity. (Turpel 1991)

It seems ironic that the conceptions of citizenship that would seem least favourable to the inclusion of Aboriginal people in the Canadian political community as a whole on terms that would respect and embrace their distinctive cultural identities may nevertheless come closest to capturing the meaning that citizenship might have *within* Aboriginal political communities. This does not necessarily entail a contradiction, but it points to a possible tension to which I will pay attention as the paper proceeds.

Theories of Differentiated Citizenship

In this section I briefly describe recent theoretical work by three philosophers that challenges the conventional models of unitary citizenship, and I draw attention to possible implications of their theories for the questions about citizenship that emerge from Aboriginal self-government.

Young's Critique of Universal Citizenship

In a widely cited article, Iris Marion Young argues that what she calls "the ideal of universal citizenship" contains three meanings of universality, the first of which — universality as the inclusion of all in full citizenship status and in participation in public life — stands in tension with the other two — universality as a focus upon the common good, defined in terms of what citizens share rather than what divides them, and universality as equal treatment, defined as the same treatment for all without regard to group differences. (Young 1989) Young says that a genuine commitment to universality in the first sense requires a conception of differentiated citizenship both with respect to deliberation about the common good and with respect to the allocation of rights.

Young's critique of citizenship as a commitment to the common good is aimed directly at the civic republican tradition. She acknowledges that contemporary civic republicans are

opposed to the overt exclusions that characterized the earlier civic republican tradition, but she argues that their emphasis on what citizens have in common tends to privilege the perspectives of dominant social groups and to exclude the perspectives of the oppressed and marginalized. Yet these perspectives are different:

Different social groups have different needs, cultures, histories, experiences, and perceptions of social relations which influence their interpretation of the meaning and consequences of policy proposals and influence the form of their political reasoning. These differences in political interpretation are not merely or even primarily a result of differing or conflicting interests, for groups have differing interpretations even when they seek to promote justice and not merely their own self-regarding ends. (Young 1989, p. 257)

Thus, a genuine commitment to the inclusion of all in public deliberation requires that differences not be suppressed but acknowledged and respected. The best way to do this is to establish special forms of representation for disadvantaged groups that ensure that these groups have the resources needed to organize themselves, that their perspectives are seriously considered in public decisions, and that they have veto power over specific policies that affect them most directly.

The second part of Young's critique is aimed, in effect, at the Marshallian conception of full citizenship as the extension to all citizens of an expanding set of civil, political, and social rights. Young does not quarrel with either the extension of rights to previously excluded groups or the expansion of the content of rights, but she claims that this kind of analysis does not pay attention to the ways group differences can create special disadvantages that call for special remedies in the form of special rights.

She discusses a number of examples of special rights that she regards as appropriate, of which the most relevant for our purposes are affirmative action and bicultural education and services. She defends affirmative actions as a remedy for the inevitable cultural biases of the people who evaluate and select for schools and jobs and of the standards they use. She also argues that

linguistic and cultural minorities ought to have the right to maintain their language and culture and at the same time be entitled to all the benefits of citizenship, as well as valuable education and career opportunities... Cultural assimilation should not be a condition of full social participation. (Young 1989, p. 272)

She insists again that such measures are a way of achieving full inclusion and participation of all in public institutions, which ought to be the goal of a genuine commitment to universality.

What is the significance of Young's analysis for my discussion of citizenship and Aboriginal self-government? It is especially helpful in providing a critical perspective on conventional assumptions about the relationship between justice and equal citizenship in Canada. Young's emphasis on the irreducibility of cultural differences and their importance for (different) understandings of justice poses an implicit challenge to the notion that a unified Canadian citizenship can legitimately be based on a shared commitment to common principles of justice, especially as these have been expressed and institutionalized in the *Canadian Charter of Rights and Freedoms*. I develop this critique of the Charter more explicitly below.

Young's proposals for change generally presuppose that disadvantaged groups will continue to be part of a larger political community and thus limited to policies and practices that the dominant groups can be persuaded to accept. This may underestimate the possibilities for group self-determination that a genuine system of Aboriginal self-government would create. Nevertheless, however Aboriginal self-government is institutionalized, in many areas and on many issues Young's presuppositions will remain valid so long as Aboriginal self-government is exercised within Canada. In these areas, Young helps us to see how recognition of the heterogeneity of the citizenry and a related reconception of the nature of public deliberation can create space for Aboriginal self-determination as part of (and not only apart from) Canadian government as a whole. The image Young portrays is that of a regime in which dialogue over justice is the point of citizenship. Negotiations are conducted not in a spirit of self-interested bargaining but as a way of pursuing mutual understanding. Young thus reveals the possibility of a conception of citizenship that is universal and inclusive because it acknowledges and affirms difference rather than denying it. In this context, a distinct Aboriginal citizenship can be conceived as a contribution, rather than an obstacle, to a genuinely inclusive Canadian citizenship.

If non-Aboriginal Canadians want real justice, they will recognize the inevitable injustice of a deliberative process that effectively excludes or overrides Aboriginal cultural perspectives on what justice requires. They will find ways to listen to Aboriginal views and to take them seriously into account. If non-Aboriginal Canadians succeed in this task, Aboriginal citizens of Canada might come to feel that they actually share a community with other citizens of Canada and that shared community can actually be a vehicle for, not an obstacle to, the kind of self-determination they seek. This is doubtless a utopian and unrealistic view of the possibilities

of shared public deliberation, but it does provide a critical standard for judging and evaluating Canadian practices in the name of an ideal of citizenship. The alternative is to be blind to the realities of an oppression carried out in the name of universality.

Kymlicka's Defence of Special Rights for Minorities

One brief section of Young's paper makes the case that special rights for cultural minorities may be necessary for the achievement of a fully inclusive form of citizenship. Will Kymlicka develops the case for special rights for cultural minorities in much more detail in a book and a subsequent series of articles. (Kymlicka 1989, 1992, 1993) Kymlicka's project is to show that the liberal commitment to equality permits and even requires special rights for cultural minorities under some circumstances.

He shows first that, despite the neglect of culture in contemporary liberal political theory, the basic arguments of theorists like Rawls and Dworkin presuppose that individuals have access to a secure cultural structure that they recognize as an essential framework for making choices about what sort of life to lead. Then he points out that those who do not share the majority culture may find their ability to make choices from within their own cultural framework jeopardized in the absence of special measures to protect their minority culture, measures that may sometimes even conflict with the normal political or personal rights of members of the majority culture. The principal example Kymlicka uses to illustrate and support these claims is that of Indian peoples in North America. Thus he argues that Aboriginal peoples are morally entitled to special rights in order to preserve their cultures.

One difference worth noting between Kymlicka and Young is the way they use the language of equality and citizenship. As we have seen, Young criticizes the norm of equal treatment in the name of universal citizenship. By contrast, Kymlicka treats the commitment to equal treatment of persons as primary and speaks of the conflict between the equality due people as citizens and the equality due them as members of a cultural community. (Kymlicka 1989, p. 230) I think these are semantic rather than real differences. There is no point in arguing about whose usage is preferable. What each author means is clear in its context, and each is compatible with the other. This should alert us not to place too much weight on the definition of terms. In a paper on citizenship, I naturally give pride of place to that term, but the substantive arguments made here should not and do not rest on any special definitions.

Kymlicka has elaborated some aspects of his argument for special rights in writings subsequent to his book. In one, he draws a distinction between three kinds of special rights that he says are run together in Young's article: multicultural rights, special representation rights, and self-government rights. (Kymlicka 1993) Multicultural rights involve special measures (like exemptions from Sunday closing laws for certain religious groups or heritage language courses in schools) that permit cultural minorities to express their cultural particularity without being disadvantaged in ordinary social processes. Special representation rights refer to special arrangements to ensure that disadvantaged groups have an effective voice in the overall political process. Self-government rights are described as follows:

Aboriginal peoples and the Québécois view themselves as "peoples" or "nations", and, as such, as having the inherent right of self-determination. Both groups demand certain powers of self-government which they say were not relinquished by their (initially involuntary) federation into the larger Canadian state. They want to govern themselves in certain key matters, to ensure the full and free development of their cultures and the best interests of their people. (Kymlicka 1993, p. 2)

Kymlicka notes that Young ties her case for special rights to the existence of group oppression, which suggests that if the oppression is overcome, the special rights should be eliminated. (Affirmative action rights would be a paradigm case of a special right one would hope eventually to eliminate.) But Kymlicka notes that both self-government rights and multicultural rights should be regarded as rights that ought to persist even after oppression has been overcome, because the cultural differences they promote are (or can be) permanent interests, and special representation rights that are tied to self-government would also have a permanent foundation. I would add that, to the extent that these rights ensure access for minority cultural perspectives that might otherwise be overlooked in the political process, they may also be needed on a permanent basis. Indeed, as I noted in my discussion of Young, what she has to say about special representation rights provides a way of thinking about the inclusion of Aboriginal people in Canadian citizenship that does not do violence to their distinct identities.

In various contexts, both multicultural rights and special representation rights may be relevant to Aboriginal projects, but for Aboriginal people the most important kind of right Kymlicka identifies is self-government rights, and the distinction he makes between it and other forms of special rights represents an important advance on Young's analysis. While Kymlicka supports self-government rights, he also says that this is the form of differentiated citizenship

that poses the most difficult problem for political community. Most multicultural rights and special representation rights are, if properly understood, vehicles of integration, not separation. Thus Kymlicka agrees with Young that these forms of differentiated citizenship are really ways of achieving a more fully inclusive citizenship. But self-government rights are different:

If citizenship is membership in a political community, then in creating overlapping political communities, self-government rights necessarily give rise to a sort of dual citizenship, and to potential conflicts about which community citizens identify with most deeply. (Kymlicka 1993, p. 14)

Denying self-government rights, says Kymlicka, is no solution, because it might encourage resentments equally threatening to national unity. Moreover, one might infer from his book that such a denial would be unjust, at least in certain circumstances. So, while Kymlicka's analysis deepens our understanding of the legitimacy of differentiated as against unitary citizenship, it also points to issues of identity and conflict that require further discussion.

Taylor's Vision of Deep Diversity

In recent essays Charles Taylor has explored alternatives to unitary models of citizenship. He argues that recognition of diversity alone is not enough. Many Canadians are comfortable with the idea of diversity as expressed in the Charter and in multicultural policies, a recognition of diversity that rests on the idea that we all belong to Canada in the same way, as citizens worthy of respect as individuals with all of our differences from one another. But, he says, there are different ways of belonging:

For Quebecers and for most French Canadians, the way of being a Canadian (for those who still want to be) is by belonging to a constituent element of Canada, *la nation québécoise*, or *canadienne-française*. Something analogous holds for aboriginal communities in this country; their way of being Canadian is not accommodated by first-level diversity...

To build a country for everyone, Canada would have to allow for second-level or "deep" diversity, in which a plurality of ways of belonging would also be acknowledged and accepted. Someone of, say, Italian extraction in Toronto or Ukrainian extraction in Edmonton might indeed feel Canadian as a bearer of individual rights in a multicultural mosaic. His or her belonging would not "pass through" some other community, although the ethnic identity might be important to him or her in various ways. But this person might nevertheless accept that a Québécois or a Cree or a Dene might belong in a very different way, that these persons were Canadian through being members of their national communities. Reciprocally, the Québécois, Cree, or Dene would accept the perfect legitimacy of the "mosaic" identity. (Taylor 1993, pp. 182-183)

The point then is not to multiply distinct societies and to require everyone to relate to

Canada through his or her own distinct society but to recognize and accept "more than one formula for citizenship" and different ways of relating to Canada. Taylor acknowledges that this vision will seem implausible to many, but he argues that it fits the requirements of Canadian political reality (and of the political realities of many other societies today) better than any unitary version of citizenship and that it is the only way to "do justice to...aboriginal populations" in Canada and Quebec. (Taylor 1993, pp. 199, 183-184)

If Taylor's vision could be realized, it would provide an answer to some of the concerns Kymlicka has identified. In the rest of the paper I try to explore some of the implications of taking "deep diversity" as a paradigm for Canadian citizenship.

Practices Incompatible with the Unitary Model of Citizenship

In many ways the picture of citizenship presented by the unitary model of the nation-state is a myth in the sense that it does not correspond to actual practice in Canada or in many other states. In some ways we have already adopted institutional practices of deep diversity. In this section I consider a couple of examples. In the next I take up in more detail the analogy between Quebec and Aboriginal communities evoked by Taylor, Kymlicka, and others. Once we see that our existing institutions and practices contain many features that are incompatible with the unitary model of the nation-state, it becomes easier to contemplate others as well. We become less imprisoned by our conceptions and more willing to consider how we want to live together and why. Conceptions of citizenship should grow out of, rather than determine, the political and social arrangements we choose.

The Exclusiveness of Citizenship

Kymlicka suggests that one problem with self-government rights is that they create a kind of dual citizenship. In fact, the number of people who hold dual or even multiple legal citizenships has grown enormously, not only in Canada but in many other countries as well, including countries that officially oppose dual citizenship in ways that Canada does not. (Some countries require people seeking naturalization to renounce any other citizenship and/or take away the citizenship of their own nationals who seek naturalization.) Is this increase in dual citizenship such a bad thing?^{ix}

As Kymlicka's use of the example suggests, the idea of dual citizenship intuitively strikes

people as problematic. Let us consider why. The objections to dual citizenship are tied closely to the picture of the nation-state sketched earlier. (Hammar 1989)

In part the objections are tied to the state aspect of that picture, especially to the image of a world organized entirely on the basis of independent sovereign states, and these objections tend to emphasize the legal dimension of citizenship. Each state is supposed to bear certain responsibilities for its own citizens. If people hold more than one citizenship, who bears the responsibilities? Are not dual citizens potentially subject to two, possibly conflicting, sets of laws (for example, with respect to such matters as marriage and divorce) and to two, possibly overlapping, sets of obligations (for example, with respect to such matters as taxation and military service)?

In part the objections are tied to the nation aspect of the picture, and these objections tend to focus on the psychological dimension of citizenship. If people hold more than one citizenship, doesn't that imply dual or multiple loyalties, identities and attachments? Where will their primary commitment be in cases of conflict? What happens to the unity and the integrity of the political community if there are competing national attachments?

In part the objections are also tied to issues of democratic legitimacy, and then they emphasize the participatory/representational dimension of citizenship. If people have dual citizenship, does that mean they can have a say in governing two different states by voting in the elections of each? If people live in one country but vote in another, doesn't that mean they will not be subject to the government and policies they are helping to select? Doesn't that violate democratic norms?

In practice, none of these objections seems very compelling. Potential conflicts in legal rules and obligations are usually resolved through bilateral or multilateral negotiations that normally give priority to the place of domicile. Multiple, overlapping, and even conflicting identifications and loyalties are a widespread phenomenon in the modern world. For most individuals, these psychological attachments are affected only marginally by legal status, so that permitting dual citizenship does little to exacerbate whatever problems such multiple identities create. The puzzles about democratic legitimacy remain minor anomalies so long as the percentage of the electorate living outside the polity is small, and various mechanisms (such as limiting the possibilities of absentee voting) are available if the problem seems large enough to worry about. In sum, dual citizenship creates few serious problems in practice, despite its

incompatibility with the conventional unitary model of citizenship.

There are striking similarities between many of the concerns expressed about the implications of Aboriginal self-government for Canadian citizenship and objections to dual citizenship. Some people worry that Aboriginal self-government will create overlapping and conflicting legal rules for Aboriginal people, will weaken the loyalty and attachment of Aboriginal people to Canada, and will call into question the legitimacy of Aboriginal participation in Canadian national elections. (Cairns 1993a and 1993b; Gibbins and Ponting 1985) The example of dual citizenship suggests possible solutions to the anticipated problems. The problem of overlapping and conflicting laws might be met through negotiations, with priority for Aboriginal laws for people living on territory ruled by Aboriginal governments and for non-Aboriginal laws for people living outside such territory. Whatever problems Aboriginal identities and loyalties create for the unity of the Canadian political community, these identities and loyalties have existed for a long time in the absence of Aboriginal governments and despite systematic efforts at assimilation. Aboriginal self-government is, in part, a recognition of and a response to this reality, not the cause of it. Finally, given the small number of Aboriginal people relative to the Canadian electorate as a whole, the issue of democratic legitimacy that might be created by Aboriginal people voting in elections while not being subject to all the laws (though presumably subject to many of them) seems like an unimportant anomaly for which institutional solutions could be found if it proved serious.

These are no more than preliminary suggestions for points of departure. The fact that Aboriginal governments would constitute one of the orders of government within Canada, rather than independent states, creates some obvious complications, so that the dual citizenship analogy will not provide an entirely satisfactory set of solutions for any of these issues. What the dual citizenship model clearly can offer is a challenge, based on common practice, to unthinking acceptance of the unitary model of citizenship.

The Unity of Sovereignty

The conventional understanding of sovereignty in terms of a unitary autonomous central state never fit well with strong federal systems and has been challenged further by supranational forms of organization (as in the European Community). Sovereignty (like property) is conceived more realistically as a bundle of rights and duties that can be (and are) parcelled out in different ways

to different collective actors, not only to states.

The quest for finality implicit in conventional claims about sovereignty is an illusion. Authority and contestation can take many forms. As Craig Scott puts it,

[S]overeignty and statehood should no longer be viewed as coterminous...
[S]overeignty should be accepted as something to be spread around and as something that simultaneously bears a multitude of meanings. (Scott 1993, p. 20)
Scott's claim is that this conception of sovereignty fits much better with actual practice in international relations, including international law, than the conventional understanding of sovereignty.

The same sort of point could be made with respect to domestic sovereignty. In a system of divided (and sometimes shared) jurisdictions such as Canada already has, even without the institution of Aboriginal governments, it is a mistake to try to locate sovereignty in one place.

As with the example of dual citizenship, the point of drawing attention to the way the actual exercise of political authority does not fit the conventional unitary model of sovereignty is to open up space for alternative ways of thinking about citizenship. The danger of the unitary model is that it narrows our horizons on the basis of an illusion, in this case the illusion of finality. This is not to say that sovereignty does not matter — that, for example, debates over whether Aboriginal self-government should be regarded as an inherent or a delegated right are unimportant. The concept of sovereignty draws attention to an important principle, the principle of collective self-legislation. Questions about how and by whom collective self-legislation should be exercised are crucial. But it is also important to see that Canada's sovereignty would not crumble and a common Canadian citizenship would not dissolve *ipso facto* with the institution of Aboriginal self-government. Sovereignty matters, but every form of sovereignty (whether of Canada or of Aboriginal peoples) will be permeable, fluid and partial. Citizenship matters, but every form of citizenship (whether Canadian or Aboriginal) will be open, multifaceted and contested. That is already the reality with which we live.

This does not settle the crucial question of whether Aboriginal self-government might have some negative effect upon the unity and coherence of the Canadian polity as a whole and, if so, how that matters. It does, I hope, open a space in which that question can be addressed intelligently. It is not a question that can be settled by appeal to legal fictions. I will return to the substantive question at the end of the paper.

Quebec as a Model?

In recent years, in the conflicts at Oka and James Bay and in the debates over the Meech Lake and Charlottetown accords, the tensions between Aboriginal peoples and Quebecers have seemed acute. There is a certain irony in this, because the similarities between Quebecers and Aboriginal peoples with respect to their relationships with Canada are striking, as the writings of Taylor, Kymlicka and Cairns reveal. (Taylor 1993; Kymlicka 1989; Cairns 1993a) In both cases we find historical communities, with ties to particular geographic areas in Canada but with parts of their population dispersed elsewhere, seeking to maintain their languages and cultures in the face of pressures, intended and unintended, from the dominant anglophone majority. Both have experienced a history of domination. Both have deep fears of assimilation. Both express hostility to the idea of multiculturalism in Canada, seeing it as an inadequate and individualistic response to their claims as collectivities to a distinct status within Canada. Both express wariness about and sometimes direct criticism of the *Canadian Charter of Rights and Freedoms*. Both assert an inherent right to self-determination as distinct peoples and demand at least strong forms of self-government within Canada as a way of implementing that right. Both seek some form of international recognition of their status as peoples and access to some international forums in their own right. In short, both assert distinct identities as against Canada in ways that raise deep questions about the representational legitimacy of the Canadian government with respect to their communities and about the meaning of Canadian citizenship.

Given the similarities between their projects, it is unfortunate that recent conflicts have been so strong. Each group seems to have experienced the other's project as antagonistic, rather than allied, to its own. This is understandable given the dynamics of the political process, but it is not inevitable. In any event, the similarities between the two projects suggest that it may be helpful to reflect upon the experience of Quebec in thinking about citizenship and Aboriginal self-government, especially since the institutions of self-government are more fully developed in Quebec than among Aboriginal peoples.^x Again, the point is to see how the practice of differentiated citizenship might inform theory, though I must admit at the outset that even existing practices of differentiated citizenship with respect to Quebec, not to mention proposed additions to such practices, are highly contested. At the same time, I will try to pay attention to the many differences between the circumstances and aspirations of Quebec and Aboriginal peoples and explore the implications of these differences.

I will take up five sets of issues: (1) international recognition; (2) language; (3) laws, especially the Charter; (4) internal unity; and (5) Canadian identity and representational legitimacy. Each involves all three of the dimensions of citizenship, as I will show in the course of my discussion.

International Recognition

The issue of international recognition I will treat briefly. One of the things Quebec has sought persistently is some distinct recognition on the world stage, so that Quebec's language and culture receive acknowledgement and respect outside Canada and so that Quebec's identity is not submerged completely under Canada's outside Canada's borders. (Taylor 1993, pp. 52-53) While full recognition would require independent statehood, Quebec has in fact managed to assert a distinct presence outside Canada, in part through its role in La Francophonie and, more important, through its establishment of immigration offices in many countries. While the latter arrangement irritates partisans of a unitary theory of sovereignty, it is now well established and has worked fairly smoothly in practice. The Canadian state has not crumbled as a result of Quebec's ability to act abroad and in its own name.

What Aboriginal peoples in Canada seek is standing in international forums dealing with the rights of peoples, especially indigenous peoples. Like Quebec, they want access to these forums to gain recognition and respect on the world stage as distinct cultural communities and political actors. In addition, these forums would provide additional ways of challenging the hegemonic policies of the Canadian government. As noted earlier, Canada has used the fact that Aboriginal people within Canada are citizens with the same legal rights as other citizens to thwart their efforts to achieve international recognition as distinct peoples. I can think of no reasonable justification for this policy.

Language

Clearly language is central to the collective identities and cultural concerns of both Quebec and Aboriginal peoples. Quebec has successfully established French as the language of public life in Quebec. It is now the normal language of work, business, government and social services, even though excellent English-language services are still available in many areas (unlike the French language services available in most of the rest of Canada). Despite criticisms of some of the

measures used to entrench French, the basic framework of Quebec's language policy seems to me both morally defensible and accepted as compatible with the requirements of Canadian citizenship.^{xi} Does it provide a helpful model for Aboriginal government with respect to language?

The answer, it seems to me, is yes and no. The deliberate and coercive suppression of Aboriginal languages was one of the worst offences of the old policies of forced assimilation. Establishing these languages as the official languages of Aboriginal governments, and thus as official languages of one of the three orders of government within Canada, is likely to be seen as an important step in giving them the official status and respect within Canada that is their due. As the example of Quebec makes clear, language and identity are intimately intertwined. Public recognition of one's language matters to people's sense of their standing in, and connection to, the political community.^{xii}

Should Aboriginal languages be made official languages of Canada, comparable in status to French and English? If so, what would that mean? Constitutional guarantees of public services, including public education, in Aboriginal languages "where numbers warrant" would seem an appropriate step, though, as Boldt warns, the viability of Aboriginal languages will depend much more on the practices of Aboriginal peoples than on such governmental policies. (Boldt 1993, p. 188) And here, as in many other areas, the question arises of how the project of Aboriginal self-government is affected by the multiplicity and diversity of Aboriginal peoples. With respect to citizenship, symbolism matters. But can language policies be more than symbolic and, if so, how? Quebec's policies may provide some clues, but certainly not a model that can be replicated in much detail, because language is an area where numbers are crucial for policy. Even in the largest Aboriginal linguistic groups, the numbers are tiny compared with the number of francophones, and French has the additional, very significant advantage of being used widely in other areas of the world.

Laws and the Charter

As a province within Canada, Quebec enjoys full legislative jurisdiction in some areas and shares others with the federal government. Quebec has sought consistently to expand the scope of its legislative powers in relation to the federal government. In some respects and on some issues, this may reflect a sense that Quebec has a different cultural tradition and that it is important to

Quebecers that the laws reflect that difference. Thus, for example, Quebec's legal system reflects the traditions of the French *Code Civil* rather than the English common law. For the most part, however, and leaving aside the crucial issue of language, already discussed, the cultural differences do not run so very deep. Whatever the particular differences of detail in the content of the laws, the general patterns of how Quebec's legal system regulates family, business and social relations would seem familiar to a resident of Ontario or, for that matter, a resident of the United States or France. Most modern industrial western liberal democratic capitalist states have similar legal systems in this broad sense, and the impetus for Quebec to control its own legislation comes more from a commitment to collective autonomy ("We want to choose for ourselves how to do things"; "We want to be masters in our own home") than from a sense of collective difference ("Our way is different from your way"). This characterization is not intended to denigrate collective autonomy, which is an important dimension of the ideal of self-determination.

One important illustration of this general pattern with respect to laws can be seen in Quebec's response to the *Canadian Charter of Rights and Freedoms*. While some reports suggest that most Quebecers are quite attached to the Charter, others point to a deep antagonism toward the Charter, at least among some important segments of the Quebec population. (Cairns 1992) Again, the explanation for the opposition varies. Some think Quebec's commitment to liberalism since the Quiet Revolution is a thin veneer spread over the traditional Catholic anti-liberal culture that characterized Quebec for much of its history, and that opposition to the Charter springs from these deep anti-liberal roots in Quebec's culture. Others argue that Quebec is committed to a different kind of liberalism from that of English Canada, one that is less individualistic and more in keeping with continental traditions of liberalism. (Taylor 1993) There may be something to this, but I am most persuaded by a third account, which traces Quebec hostility to the Charter to the fact that the Charter is not just a neutral instantiation of liberal ideals but a political document, designed explicitly by Pierre Trudeau to link Canadians as individual citizens to the Canadian state and thus to serve as a unifying symbol of Canadian citizenship, with the goal of undercutting Quebec nationalism. (Cairns 1992) In fact, the Charter has now become a powerful symbol of Canada — and especially of the common commitments implied by Canadian citizenship — for many Canadians, especially in English Canada. This third account takes Quebec's liberalism seriously and points to the fact that Quebec has its own

Charter of Rights and Freedoms — adopted before the Canadian Charter and embodying many of the same sorts of liberal protections — and to the fact that the nationalists who oppose the Canadian Charter celebrate Quebec's. The issue on this account is less the content of the Charter than its origins and identity.^{xiii}

Aboriginal peoples have also placed a lot of emphasis on gaining legislative control as one important dimension of self-determination, but it seems to me that they place much more emphasis than Quebec's advocates on the depth and character of the cultural differences between Aboriginal peoples and the rest of Canada, so that, if they are able to embody these cultural differences in legislation, living under an Aboriginal government might indeed feel like a very different experience from living in Quebec or in one of the other provinces. (Turpel 1991)

Let me develop this point, first abstractly in terms of principles of justice, and then more concretely with respect to the Charter. Do Aboriginal peoples share the same principles of justice as the rest of the population of Canada? That is a hard question to answer. All principles require mediation, instantiation, embeddedness in some concrete social context. Different forms of mediation have different advantages and disadvantages, different features and quirks, and may fit together more or less well with other forms of mediation. But sometimes the particularity of the mediation overwhelms the abstract principle it allegedly instantiates. Or, to put it another way, people are supposed to experience the realization of principles of justice through various concrete institutions, but they may actually experience a lot of the institution and very little of the principle. That can be true, of course, even in the context of a shared background culture, but the problem becomes more acute where the background culture is not shared by people subject to the institutions.

In the face of deep cultural differences within a state, it may be appropriate and even necessary to try to construct alternative forms of mediation, forms more congruent with non-dominant cultures. But if the forms of mediation are sufficiently different, it may be hard to tell whether they really do instantiate the same principles.

Let me illustrate these abstract propositions with the concrete case of Aboriginal objections to the Charter. Why are some Aboriginal people opposed to the Charter? Well, not, they would say, because they want to be able to prevent other Aboriginal people from practising their religion, or to restrict their freedom of expression, or to deny them equal treatment. They know at first hand that these are bad things to do because these are the sorts of things that have

been done to them since the Europeans arrived and that continue to be done.

Then perhaps they do share the same basic principles of justice, and what they want is that the principles actually be respected in practice, in which case the Charter might be a good first step? Well, not exactly. Cultures vary from one Aboriginal people to another, and there are many Aboriginal peoples in Canada, but most, if not all, are very wary about articulating basic principles of justice in the language used by liberal democratic theorists. There is a richly elaborated, highly refined tradition of discourse associated with words like 'rights', 'justice', 'democracy' and, I might add, 'citizenship'. You might say that even abstract principles and concepts turn out to be thickly mediated forms of expression, and it is that thick mediation that is particularly worrisome. Some Aboriginal writers suggest that their traditions emphasize responsibilities more than rights and the well-being of the community rather than the claims of the individual, but they also see even these formulations as alien and distorting in important respects. (Turpel 1991)

These general concerns about cross-cultural communication pale in comparison to the concern about what the Charter would mean in practice. After all, the Charter is not a philosophical formulation of moral principles, but a set of legal concepts and categories that will be interpreted and applied by particular people (not, need it be said, Aboriginal people), people selected and trained in certain ways (and not others), people attuned to certain considerations (and not others), people taught to regard certain forms of communication (and not others) as intellectually respectable and relevant. Who will have actual, effective power to make Charter claims, and for what ends will they make them?

In short, the Charter is embedded in a complex, costly, and alien legal system. Aboriginal opponents of the Charter have no confidence that such a densely mediated form of justice will, in fact, do justice to Aboriginal people. On the contrary, they can point to a long history of Aboriginal experience with the rule of law in Canada's liberal democratic regime. It is not, to put it mildly, a happy experience. So now, just when the political struggles of Aboriginal people in Canada seem to have opened some prospect for them to reclaim some significant degree of control over their own communities after a long and destructive period of subordination, the insistence by some non-Aboriginal people that the Charter must apply to everyone living in Canada is experienced by some Aboriginal people as a reassertion of hegemonic control. (Turpel 1991)

But only by some. The Métis, who first gained constitutional status with the Charter, want to keep it but supplement it with a Métis Charter. The Inuit Tapirisat seems prepared to accept the Charter, so long as they have access to the override provisions to protect their language and culture. Even among Indians, there are divisions, with one leading organization, mainly representing Indian women, in favour of the Charter as a bulwark against what they see as the male-dominated Indian leadership. Another organization representing non-status Indians is ambivalent. The strongest opposition to the Charter comes from the Assembly of First Nations, the leading organization representing status Indians. (Cairns 1993a, p. 188)

This varied response to the Charter draws our attention back to a point made earlier in the paper, namely that there are differences among Aboriginal people relevant to the issues of citizenship. These differences will become more salient as we turn to the three remaining points of comparison with Quebec.

Internal Unity

Over the past few decades, the national identity of francophones in Quebec had evolved from that of *la nation canadienne-française*, a minority nation within the state of Canada, to that of *la nation québécoise*, a majority nation within the province of Quebec. While Quebec had always had a homeland status for most francophones, so that francophones outside Quebec constituted a kind of diaspora, the separation between francophones inside Quebec and francophones outside greatly intensified with the development of the Québécois identity, as opposed to that of Canadien-Français, and the policies that went along with that identity, emphasizing the autonomy of Quebec and the status of French as the language of public life in Quebec, with the consequent neglect of, and even hostility toward, policies of national bilingualism. How could francophones outside Quebec think of themselves? Most had never lived in Quebec and had no intention of moving there, so they could not really think of themselves as Québécois. If Quebec's distinct society was marked by its distinctiveness from the rest of Canada, it did not include them. So, they retained an identity as francophone Canadians, an identity severely diminished, however, by the awareness that most Quebec francophones no longer shared it. Quebec francophones saw this development as a regrettable but inevitable by-product of their project of political autonomy, a project essential for the long-term preservation of any viable francophone culture and identity in North America.

Now a new development is taking place, in which the identity Québécois — member of an historical cultural community with a richly detailed way of life — is gradually giving way to that of Quebecer — citizen of a political community in which French is the language of public life. This development is strongly shaped, though not exclusively determined, by the fact that Quebec contains many immigrants and is committed to a continuing and significant intake of immigrants because of the demographic, economic, and political contributions they can make to building Quebec's distinct society. (This commitment to immigration is true even of the Parti Québécois.)

The presence of the immigrants creates a dilemma for Quebec's identity. On the one hand, it is essential that the immigrants become members of Quebec's distinct society. Otherwise their presence will not be a contribution to, but a derogation from, the distinct society. On the other hand, it is not legitimate in a society like Quebec, that is explicitly and publicly committed to liberal democratic values of pluralism and tolerance, to expect immigrants to abandon their cultures of origin and to assimilate in a strong sense. So, Quebec's distinct society is coming to be defined almost exclusively in terms of the French Fact, that is, that French is the language of public life, because adaptation to that fact is the one distinctive thing Quebec can legitimately expect of immigrants. (Carens 1994)

With the institutionalization of Aboriginal self-government, Aboriginal peoples may face a development somewhat similar to the first one, that is, the intensification of a split already present between Aboriginal people living in the diaspora and those living in homelands. It seems reasonable to assume that the most effective and far-reaching forms of Aboriginal self-government will emerge in contexts in which Aboriginal peoples possess a territorial land base and constitute the overwhelming majority of people living in that territory. If these new Aboriginal governments become the focal points of identity and action for those whose daily lives are affected by them, as will be the case if they work well, the gulf between those who live inside such territorial units and those who live outside may well widen. If the governments are successful in revitalizing Aboriginal culture within these local political communities, those who live inside and those who live outside may come to feel that they no longer share the same way of life or the same fate. In short, common bonds and common identity may weaken.

The second kind of development seems far less likely to occur, if only because, with the exception of Nunavut, most Aboriginal governments are not likely to include significant numbers of non-Aboriginal people under their jurisdiction, and none, including Nunavut, seems likely to

seek significant numbers of non-Aboriginal newcomers (whether from outside or inside Canada), so that the same issues of integration and assimilation are not likely to arise.

On the other hand, the institutionalization of Aboriginal governments may contribute to the evolution of Aboriginal identities in another way, namely by increasing the salience of the category 'Aboriginal' and its sub-categories 'Indian', 'Inuit', and 'Métis'. It is clear that Aboriginal cultures were traditionally local cultures, to a considerable extent, and identities likewise primarily local, though the picture is certainly more complex for a number of groups (e.g., Iroquois, Ojibwa, Haida). Over the years both bureaucratic categorization and oppositional political action have created some basis for a common Aboriginal identity, and especially for a common Indian identity, despite the tremendous diversity among Indian peoples. While Aboriginal self-government will strengthen local identities in some respects, the economic, administrative, and political requirements of self-government will all generate the need for much more co-operation among different Aboriginal communities than in the past. It is at least possible, then, that many people will develop a stronger sense of identification with the Aboriginal community as a whole and even a sense of Aboriginal citizenship (in the sense of membership in a genuine overarching Aboriginal community or in some significant subset). Of course, this sort of development is even more likely among that vast segment of the Aboriginal population that lives in cities or in other areas where Aboriginal people do not constitute a majority of the inhabitants.

Partly as a result of such developments, the Aboriginal community as a whole may face complex institutional questions about representation and political legitimacy. For example, will each Aboriginal government be represented in larger bodies on an individual basis or will factors like population count? How will the huge population of Aboriginal people living in urban areas be represented? Will the relations of Aboriginal people to overarching political entities be mediated entirely through local governments and organizations, or will there be some sense of more direct connection between Aboriginal leaders and Aboriginal people? Of course, Aboriginal organizations already face these questions, and we need not assume that the institutional answers must reflect one principle. Nevertheless, the current situation has a certain fluidity and ambiguity with respect to organizational representation, which it may be more difficult and less desirable to maintain in the future, and new patterns of identification among Aboriginal people could make the organizational issues more salient and more difficult to resolve.

Canadian Identity and Representational Legitimacy

Some people, seeing this heading, may be tempted to ask "What Canadian identity?" with respect to both Quebecers and Aboriginal people. And that is precisely the issue. Some people have suggested that we should move toward a 'three nations' conception of Canada, though the identities of Quebec as nation and of any putative Aboriginal nation are complex and ambiguous for reasons indicated in the previous section, and the third nation, the Rest of Canada, is perhaps best described as a reactive nation-in-waiting. Nevertheless, the three nations conception captures something important about current divisions within Canada.

At the heart of the issue of Canadian citizenship is the question whether there is or can be anything stronger than regrettable necessity keeping members of these three nations within the same political community. In the case of Quebec, regrettable necessity might be defined in terms of the potentially high, and very uncertain, economic costs of independence. In the case of Aboriginal peoples, necessity might be defined as the need for continuing transfers of resources (even if conceived as justified entitlements) and/or as the non-viability of small, economically and organizationally limited political units in the modern world. It is striking, for example, that when the Royal Commission reports why Aboriginal people want to remain within Canada rather than establish independent states, it puts the point as follows:

Some Aboriginal people who spoke to the Commission said that the inherent right of self-government means that they can govern themselves in any way they see fit, without reference to Canada. Most agree, however, that the idea of separate Aboriginal nation-states is neither practical nor beneficial for Aboriginal people.
(RCAP 1993b, p. 28)

This suggests that even those Aboriginal people who oppose formal independence think of their relationship to Canada primarily in instrumental terms rather than in terms of a fundamental identity or attachment. In other words, the suggestion is that if Aboriginal people and Quebecers could do without Canada, at a cost that was not unacceptably high, they would.

Suppose the suggestion is correct, at least as a description of the current state of affairs. The only thing that keeps the three nations together is regrettable necessity. This would certainly pose a very deep challenge to any positive conception of Canadian citizenship. In part this stems from the unavoidable connection between identity and representational legitimacy. As Alan Cairns has observed,

Both Québécois and aboriginal nationalists act as if their people did not have dual

identities and loyalties, one of which is legitimately represented by the federal government. Instead, they implicitly deny, or at least downgrade, the "other" identity of Québécois and aboriginal peoples as Canadians. They treat the Canadian identity as that of the other, of the external party that sits on the other side of the table and therefore speaks as an outsider, through Quebec and aboriginal leaders, to Québécois and aboriginal peoples. (Cairns 1993a, p. 193)

Cairns goes on to note that federally elected members of Parliament no longer seem able to speak for the Québécois or Aboriginal people they were elected to represent and that the "theory and practice of representation are in disarray." Sometimes Cairns seems to admire the political skill of the nationalists in delegitimizing duly elected representatives; sometimes he seems frustrated, as though they should not be able to get away with it.

The nationalists are skilful, of course, but I think they win these legitimacy struggles for other reasons, namely, that our conventional electoral mechanisms presuppose a degree of shared identity between voters and the people elected to represent them that it is not plausible to assume in the cases Cairns cites. This is especially clear for Aboriginal people, for reasons Cairns himself reveals in another essay, where he notes that the tendency of both Aboriginal and non-Aboriginal people not to see Aboriginal people as Canadians "is strengthened by the absence of a prominent Aboriginal Trudeau who bridges the indigenous-non-Aboriginal gap and defends positive links with the latter from a position of member of the former." (Cairns 1993b, p. 16) Cairns' formulation shows that the foundation of Trudeau's legitimacy in addressing Quebecers was that they knew he was one of them, and not merely that he had won election in some local riding. No prominent (or perhaps even obscure) federal politician could claim that kind of shared identity with Aboriginal people, and that reveals, in the first instance, not the alienation of Aboriginal people from Canadian politicians (though that may be real enough) but the alienation of Canadian politicians from Aboriginal people. If there is no Aboriginal Trudeau, perhaps it is, at least in part, because none was cultivated (though the challenge would have been to find someone who was not just Aboriginal by descent but a credible spokesperson, as Trudeau was for French Canadians).

What (if anything) could be done to transform this sense of regrettable necessity on the part of Aboriginal people and to create a positive identification with and attachment to Canada?^{xiv} The most promising course, I believe, would be to embrace a conception of differentiated citizenship that enabled non-Aboriginal Canadians to perceive Aboriginal self-government as something that contributes to the strength and depth of Canada as a political community and that

enabled Aboriginal people to experience their relationship with Canada as something that supported rather than undermined their aspirations to live as Aboriginal people. At the least, this would require that we non-Aboriginal Canadians make an effort to acknowledge the thickly mediated character of our own practices and ideas and to try to understand more about the thickly mediated character of Aboriginal practices and ideas. A shared identity that precedes genuine inclusion in common deliberation is hegemonic. Young is surely right about that. If we start from the assumption that we both care about justice but think about it differently, and if we try to explain ourselves to each other, we might arrive at arrangements that feel like more than a satisfactory bargain, arrangements that combine mutual compromise and mutual understanding in ways that create genuine common bonds. And that is the sort of basis on which a shared identity could be built — and, eventually, perhaps even a genuinely shared citizenship.

Conclusion: Citizenship and Integration

In this final section I want to consider a fundamental challenge to the line of argument I have been developing in this paper. In the course of trying to meet this challenge, I will summarize and emphasize some of the central themes of the paper.

The challenge asserts that the version of differentiated citizenship that I have been describing and defending cannot perform one of the key functions of citizenship: civic integration.^{xv} The phrase 'civic integration' is not intended here to evoke old assumptions about the cultural superiority of the west and the desirability of assimilation. Rather the point is to draw attention to one of the fundamental requirements of any political community that functions effectively. Members of a political community should be able and willing to work together, to understand one another, to seek agreement on issues, to compromise where necessary to reach agreement, to respect each other's legitimate claims, to trust one another, and even to make sacrifices for one another. This is what belonging to a common community means or ought to mean.

What can engender these sorts of dispositions and commitments? Theorists of unitary citizenship argue that, in a modern pluralistic state where people do not share a common ethnicity, religion, or even language, the government must try to create common bonds, by establishing a single political status with the same rights and responsibilities, that will give rise to shared interests and identities that in turn foster the dispositions needed to make a political

community function effectively. On this view, the danger of Aboriginal self-government and of the related concept of differentiated citizenship is that their emphasis on recognizing and institutionalizing difference could undermine the conditions that make a sense of common identification and thus mutuality possible.

We see again here the importance of the psychological dimension of citizenship. If Aboriginal people and non-Aboriginal people do not feel themselves to be members of the same community in some significant sense, they may not be willing to make the compromises and sacrifices required for people to live together well. They may adopt more instrumental attitudes in their dealings with one another. As Cairns puts it in his comment on an earlier draft of this paper, the issue is whether differentiated citizenship will "weaken the incentive for non-Aboriginal Canadians to treat Aboriginal Canadians in terms of equal citizenship in areas where the latter would desire such treatment." Or as another reviewer asks, what common bonds "exist that would explain why funding of Aboriginal self-government would be seen by non-Aboriginals as an issue of urgent justice between fellow citizens (rather than, say, humanitarian concern for strangers)", and how would these common bonds be sustained or undermined by different ways of thinking about citizenship and different ways of organizing the relations of Aboriginal people to the federal government?

This set of concerns and questions constitutes an important challenge to the idea of differentiated citizenship, but I think it is a challenge the concept can meet, at least at the level of principle. I am persuaded that any political community should aspire to create civic integration of the sort discussed above (i.e., mutual concern, trust, and understanding). If Canada is to have a good future, it is essential that Aboriginal and non-Aboriginal people find ways to work together in a spirit of trust and mutual co-operation. But I do not think that unitary citizenship contributes to this goal. On the contrary, one central thesis of my paper is that this kind of civic integration is more likely to result from differentiated citizenship, properly understood, than from any alternative conception of citizenship. Paradoxically, greater respect for difference is more likely to generate more genuine unity than any attempt to manufacture that unity directly. Nevertheless, differentiated citizenship does carry certain risks of increasing the divisions between Aboriginal and non-Aboriginal people. To assess those risks, both normatively and politically, we must place them in the proper perspective.

First, it may be helpful to ask what actual alternatives critics of differentiated citizenship

might have in mind. There is a tendency in some discussions of this issue to slide, often implicitly and perhaps unconsciously, from the legitimate claim that a good political community will be built upon mutual understanding, trust and concern among its members to the much more problematic one that these orientations are now characteristic of the relationship between Aboriginal and non-Aboriginal people in Canada and that differentiated citizenship would somehow undermine them. As the third section of this paper established very clearly, the whole history of efforts to promote unitary citizenship in Canada with respect to Aboriginal people is a history of forced assimilation. The most recent attempt to move strongly in the direction of unitary citizenship, the White Paper of 1969, was repudiated decisively by Aboriginal people. It is surely impossible to generate dispositions of mutual understanding, trust and concern by means of the compulsory imposition upon Aboriginal people of a unitary citizenship they do not want. In that respect, when the theory of unitary citizenship is assessed in the actual context of Canadian history and Canadian political realities, it appears far more idealistic, even naïve, than the theory of differentiated citizenship I have been presenting.

The inadequacies of the unitary alternative do not show, however, that differentiated citizenship can create the desirable sort of civic integration, or that there is not some alternative conception, perhaps combining elements of both, that would be superior. I will address the latter first.

First, it is important to remember that I have characterized the conception of differentiated citizenship presented in this paper as an ideal type, describing one end on a continuum of possible relationships between Aboriginal people and Canada. Aboriginal people do not fit a single mold, and however they are categorized and subdivided, the members of these groups do not fit a single mold.

As already noted, most Aboriginal people live outside reserves or other Aboriginal territory, and most of those live in cities. Among this population, some Aboriginal individuals may well want to reject any form of differentiated citizenship and insist on their possessing the same rights and responsibilities as non-Aboriginal Canadians (though these are not as uniform as we sometimes unthinkingly assume). That is an option that should certainly be open to them. And of this group that rejects differentiated citizenship, some may reject their Aboriginal identity, others may hide it, and still others may assert it proudly.

Further along the continuum, Aboriginal people will possess varying degrees of

differentiated citizenship. If all goes well, they will have more opportunities than today to live their lives in and through Aboriginal institutions, but so long as they live outside Aboriginal-controlled territories, they are bound to have many connections and interactions with federal and provincial governments. For them (as for the group that rejects differentiated citizenship) the issue is not whether they will have any direct links to the various non-Aboriginal governments in Canada, but what the quality of those links will be and how that will affect their feelings about Canada as a political community. As noted earlier, many of the worst forms of oppression suffered by Aboriginal people within Canada stem from a failure to meet conventional (unitary) standards of equal citizenship that the advocates of differentiated citizenship do not seek to challenge. No genuine civic integration can be achieved so long as Aboriginal people continue to be subject to deep and pervasive racism.

Finally, consider those Aboriginal people who will be living in Aboriginal communities where self-government is most extensive. Let me cite at length here the view of the anonymous reviewer who emphasized the importance of civic integration:

[I]t is crucial to ensure that the individual members of self-governing Aboriginal communities have some direct relationship to the Canadian government. ...There must be some rights, responsibilities, services and forms of political participation which connect individual Aboriginals directly to the Canadian government (and hence to other Canadians), and which give Aboriginals an allegiance to the federal government that is independent of their allegiance to their band government. ...[P]roposals for Aboriginal self-government...should not deprive the federal government of any independent claim to legitimacy or loyalty, by eliminating or drastically reducing any direct connection between individual Aboriginals and the federal government. Otherwise, conflicts between Aboriginal band governments and the federal government will automatically be seen as an 'us versus them' situation.

This argument nicely illustrates the importance of considering the interaction among the different dimensions of citizenship. The underlying hypothesis seems to be that legal arrangements vis-à-vis the federal government will affect both the psychological identification of Aboriginal people with the Canadian government and with non-Aboriginal Canadians and the feelings of Aboriginal people about the representational legitimacy of the federal government. Now it is certainly a reasonable general hypothesis that legal arrangements will tend to affect both psychological identification and representational legitimacy, but it is far from clear that it would work in the way that the reviewer suggests here. As the reviewer notes, the current legal connections between Aboriginal people and the federal government do not generate the desired

forms of psychological identification or representational legitimacy: "the existing mechanisms connecting individual Aboriginals to the federal government are not working." So, what is required, as the reviewer says explicitly, is radical reform of the federal electoral system, criminal justice system, and bureaucracy as they connect to Aboriginal people.

I am certainly not opposed to such reforms. Even under the strongest forms of Aboriginal self-government there are bound to be consequential legal ties between individual Aboriginal people and the federal government. Perhaps there are reforms that could have some of the effects that the reviewer anticipates; if so, that would certainly be to the good. But I think that the reviewer is mistaken in claiming that this is the only hope for civic integration:

To abandon the hope that the federal government can effectively represent and serve Aboriginal interests independently of Aboriginal governments is to abandon the hope for integration, since it would mean that the federal government will always be seen by Aboriginals as "them" (and vice-versa).

If civic integration is about creating dispositions toward mutual understanding, trust and concern, then it is not clear why these dispositions have to be the product of a direct relationship to the federal government rather than the product of relationships to the federal government and other Canadians mediated primarily through Aboriginal political communities. If Aboriginal people feel that the communities with which they identify most deeply have space for self-determination within Canada, and that the representatives whom they regard as legitimate are treated with respect and have an effective voice in their (inevitably frequent) interactions with federal and provincial governments and with the non-Aboriginal Canadian public, including a voice in shaping their legal connections with Canada, then Aboriginal people may well develop a sense of identification with and attachment to this larger community of which their community is a respected and integral part. Even if Aboriginal people continue to view the federal government as representing 'them', not 'us' — a tendency that may be unavoidable given the relative sizes of the Aboriginal and non-Aboriginal populations and the salience of Aboriginal identity — they may nevertheless come to think of Canada as a political community to which they belong.

Canada as a political community need not be regarded as identical or reducible to the federal government. As Taylor points out, we do not all have to belong to Canada in the same way. For some, including many Aboriginal people, Canada might be seen as the interactive product of its constituent communities, including the federal government, and people may feel

they belong because they identify strongly as members of one or more of these constituent communities.

To put some of these points another way, given the history and present circumstances of Aboriginal people in Canada, it would be unreasonable to expect most of them to have a strong positive identification with and attachment to Canada as a political community. That is what gives rise to what I postulate to be a widespread sense among Aboriginal people of the 'regrettable necessity' of staying within Canada. But that sense of regrettable necessity need not be taken as permanent and unchangeable. A more positive psychological attachment to Canada is not likely to emerge, however, at least not primarily, from improvements in the legal and institutional connections between individual Aboriginal people and Canadian governments (although such improvements are both desirable and necessary). For Aboriginal people, the psychological dimension of citizenship — the sense of identification with and attachment to Canada, the sense of belonging — is most likely to emerge as a long-term outgrowth of the exercise of legal and participatory citizenship in ways that actually promote the fundamental cultural interests of Aboriginal peoples.

Let me take the argument one step further. I would hypothesize that the success (or failure) of the most far-reaching experiments in Aboriginal self-government might have a significant effect on the psychological citizenship, even of those Aboriginal people who do not participate directly in the experiments, by marking out an important set of boundaries regarding the possibilities for Aboriginal people in Canada.^{xvi}

If my primary argument is correct, then the only effective way to promote the civic integration of Aboriginal people is through the kind of differentiated citizenship described in this paper. Only that form of citizenship will give rise to the psychological attachment to Canada, which is in turn the necessary precondition for the dispositions to mutual understanding, trust and concern that characterize civic integration.

There is a second, more direct way in which differentiated citizenship contributes to civic integration: its emphasis on dialogue about difference. To some the phrase 'differentiated citizenship' suggests nothing but an emphasis on what separates us. To put the objection in its harshest form, some hear the Aboriginal demand for self-government as a way of saying, "Give us the money and then shut up and leave us alone." No doubt this does reflect what some Aboriginal people feel, and it may reflect what most of them feel at one time or another. That is

an understandable reaction to a relationship in which, for a long time, the non-Aboriginal side has had most of the power and has done a lot of talking and very little (serious) listening. But it is clearly not an attitude that can sustain a long-term relationship. And the concept of differentiated citizenship articulated here shows why it is not the right way to think about the meaning of Aboriginal self-government.

My ideal of differentiated citizenship entails a dialogue between Aboriginal and non-Aboriginal people over the meaning of justice. A dialogue over justice is not an instrumental relationship. Rather it is the kind of relationship that, when it works, gives rise to mutual understanding, mutual trust and mutual concern. Such a dialogue would strengthen ties between Aboriginal people and non-Aboriginal people, not weaken them, and deepen, not diminish, the attachment of Aboriginal people to Canada. It offers a way of transforming what is currently a highly instrumental and unequal relationship into one based on reciprocity and mutual commitment.

My anonymous reviewer expressed scepticism about the strategy of relying upon such a dialogue to create shared bonds:

How do we know that the dialogue won't in fact show that we have even less in common than we thought? In any event, is there really nothing we can say *now* about the sorts of bonds that Canadians share? (And if not, what explains why we bother making the effort to enter into a dialogue in the first place?)

Of course, there is no guarantee that a dialogue about justice will work. Perhaps we will not be able to find mutual understandings and mutually acceptable compromises. But it is an illusion to suppose that an emphasis on current common bonds offers any more hope. The same reviewer concedes that the current relationship between Aboriginal people and the Canadian government is a disaster. The bonds we share now are the bonds of our history and current connections. But these bonds cannot serve as the basis for civic integration. At the risk of repeating myself, I would insist that it is implausible to suppose that Aboriginal people will develop a sense of identification with and attachment to Canada and will develop related dispositions toward mutual understanding, trust and concern with non-Aboriginal Canadians on the basis of the current bonds. Those bonds create only (or primarily) the ties of regrettable necessity for many or most Aboriginal people. Regrettable necessity explains why we are connected enough to make the effort to enter into the dialogue, but the dialogue itself offers the best hope for transforming the bonds into something more positive.

So far I have been focusing on the problem of civic integration with respect to Aboriginal people, that is, on the question of what effects differentiated citizenship would have on the attitudes of Aboriginal people toward Canada and toward non-Aboriginal Canadians. I have argued that differentiated citizenship would be more likely than any alternative to promote civic integration among Aboriginal people while conceding that there could be no guarantee of success.

But this is only part of the story. Civic integration also involves non-Aboriginal people. Some critics of differentiated citizenship for Aboriginal people are concerned primarily with its effects on the attitudes of non-Aboriginal people. Both Cairns and the anonymous reviewer worry that differentiated citizenship for Aboriginal people will undermine non-Aboriginal Canadians' feeling that Aboriginal people are members of the Canadian political community and hence entitled to equal treatment and concern. One consequence over time, they fear, might be an erosion of the willingness of non-Aboriginal Canadians to provide financial transfers to support Aboriginal self-government.

I think that this is a realistic concern, but that it is important to evaluate this possible development critically as well as realistically, from the perspective of principle as well as from the perspective of prudence. In other words, we should be concerned not only with the likelihood but also with the legitimacy of this sort of reaction.

Sometimes this anticipated decline in mutuality on the part of non-Aboriginal Canadians is presented as a reasonable and perhaps inevitable response to a decline in mutuality on the part of Aboriginal people as reflected in their pursuit of self-government and differentiated citizenship. But this account is clearly wrong, if the analysis of differentiated citizenship I offer here is accepted. It is the current relationship that lacks genuine mutuality, and differentiated citizenship that offers the best hope of creating it. So, if non-Aboriginal Canadians are truly committed now to mutual understanding, trust and concern in their relationships with Aboriginal people, they should embrace differentiated citizenship and Aboriginal self-government. Yet non-Aboriginal Canadians may not see this, in part because the myth of unitary citizenship is so powerful and widespread.

We are faced then with a paradox and a dilemma. The paradox is that the very concepts and institutions (Aboriginal self-government, differentiated citizenship) that seem the most promising in terms of leading Aboriginal people to feel as though they really belong to Canada as

a political community are also those that may lead non-Aboriginal Canadians to feel as though Aboriginal people no longer belong. This would not happen if non-Aboriginal Canadians understood the concepts and institutions correctly, but a misunderstanding seems likely (though perhaps not inevitable).

The dilemma is how to respond to this paradox. We have seen in this paper why differentiated citizenship for Aboriginal people is the best way to meet the demands of justice and equality and even the most promising way to promote the civic integration of Aboriginal people. Yet the fact that something is right does not guarantee that it will triumph in history. Aboriginal people need hardly be reminded of that. As bad as the situation of Aboriginal people in Canada is today, it could be worse, and it probably would be worse if the dynamics of detachment developed in the ways sketched by Cairns and the anonymous reviewer. Yet if Aboriginal people were to abandon or significantly modify their project of self-government out of fear of this sort of reaction on the part of non-Aboriginal Canadians, how could their legitimate demands ever be met, and what could possibly promote their civic integration with non-Aboriginal Canadians? Such a course would seem to me to reflect a resigned acceptance of the view that their relationship with non-Aboriginal Canadians is and can only be an instrumental one, defined fundamentally and unalterably by the disparities of wealth and power. That would be a sad development, not only for Aboriginal people but for all those who aspire to Canada becoming a political community in which all of its members are integrated on the basis of a genuine mutuality.

What is to be done? I am glad that this is not for me to decide. Those with responsibility for acting in the name of others certainly have an obligation to make realistic assessments of the risks and consequences of alternative courses of action. Beyond that, by clarifying the meaning of Aboriginal self-government for the Canadian public as a whole, efforts like the Royal Commission — and in a very small way this paper — may help to eliminate the paradox just outlined and thus to dissolve the dilemma that seems to flow from it.

Notes

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iI use the term 'officially' deliberately because many of the policies and practices of government officials still reflect, consciously or unconsciously, an assimilationist mentality. Indeed, certain ways of conceiving of 'self-government' are informed by assimilationist assumptions.

iiThe Royal Commission noted that most of the Aboriginal people appearing before the Commission did not think of Aboriginal self-government as entailing separate independent Aboriginal nation-states. (RCAP 1993b, p. 28)

iiiFor example, based on the testimony of Aboriginal people to the Royal Commission, it would seem that some Aboriginal people in urban areas think of themselves as band members who just happen to be living elsewhere at the moment and who want to maintain strong ties to their bands, while others have a powerful sense of identification as Aboriginal people, perhaps more specifically as Indian or Métis, perhaps even more specifically as Ojibwa or Iroquois, but do not feel as powerful ties to a specific band or to specific Aboriginal land. (RCAP 1992, 1993a, 1993b, 1993c)

ivThis section draws on Miller 1991, pp. 110, 114, 190, and 206, and on Cairns 1993b. This section focuses primarily on the history of Indian policy because it is that history that is most relevant to Aboriginal wariness regarding talk about citizenship in Canada.

vHence Canada's legislature passed an "Act for the Gradual Civilization of the Indian Tribes in the Canadas" in 1857, laying out the terms under which Indians could become full citizens and drop their Indian status.

viSee Cairns 1993a and 1993b for expressions of concern about the fact that the duly elected representatives of the Canadian state are not perceived to be legitimate spokespersons for Aboriginal people.

viiThis historical difference may help to explain why Inuit and Métis are less hostile than some Indians to the *Canadian Charter of Rights and Freedoms*, one of the primary symbols of contemporary Canadian citizenship. See section beginning on page .

viiiMenno Boldt fears that Aboriginal governments will not be able to meet these cultural expectations and that, precisely for that reason, too much attention is paid to Aboriginal self-government at the expense of other ways of preserving Aboriginal cultures. (Boldt 1993)

ixAt the same time as dual citizenship has increased, every western society has virtually abolished traditional distinctions between citizens and long-term residents with respect to legal, economic and social rights, with the exception of rights to vote and to hold public office. So citizenship cannot be regarded as the distinct marker of civic entitlements that it once was.

xAlan Cairns argues that resistance to Quebec's demands for distinctive political arrangements and distinctive status within Canada has been stronger, in the most recent constitutional negotiations, than resistance to such demands by Aboriginal peoples. Cairns does not attribute this to the goodwill of the rest of Canada toward Aboriginal peoples (or to malevolence toward Quebec) but rather to the fact that Canadian elites perceive Quebec to be central, and Aboriginal peoples marginal, to Canadian identity. (Cairns 1993a and 1993b)

xiFor a defence of these views in the context of Quebec's policies toward immigrants, see Carens 1994.

xiiI presuppose here that it is possible to exclude the languages of most immigrant groups in Canada from any official recognition (except as heritage languages) without denying those groups the respect due them as citizens. That is not a self-evident truth. It needs to be examined critically. In particular, we require some fuller account of why numerically large and concentrated immigrant groups do not have the same sorts of moral claims for their languages. That requires more than the invocation of history, since any discussion of Aboriginal moral claims is bound to involve, as this paper has, both criticism of history and appeal to it. We need some account of what sorts of historical claims deserve moral respect and what sorts do not. Unfortunately, that is beyond the scope of this essay.

xiiiSee the various essays in Carens forthcoming 1995.

xivI leave aside the question of what (if anything) might be done in the case of Quebec. For discussion of some of those issues, see Carens forthcoming 1995.

xvIn articulating this objection, I draw heavily and explicitly on a detailed and thoughtful comment on an earlier draft of this paper by an anonymous reviewer for the Royal Commission. I draw as well upon the thoughtful criticisms of Alan Cairns, who also served as a reviewer of the manuscript for the Royal Commission and upon Cairns' published writings. I should perhaps note as well that I have revised some of the earlier sections of the paper in response to these critics, so that if I do succeed in answering their objections here, that may be due in part to the clarifications they enabled me to introduce earlier, particularly with respect to the ideal-typical character of this inquiry into differentiated citizenship.

xviThis hypothesis stands in some tension with, but I think is not ultimately incompatible with, my earlier hypothesis about diaspora effects.