

# REFLECTIONS ON BEING, AND BECOMING, MÉTIS IN BRITISH COLUMBIA

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**G**REAT CHANGES HAVE BEEN WROUGHT in both the politics and the historiography of Métis<sup>2</sup> peoples since the groundbreaking volume edited by Jacqueline Peterson and Jennifer Brown, *The New Peoples: Being and Becoming Métis in North America*, was published in 1985. This volume offered new insights into the history, sociology, and geography of Métis. It made complex the earlier simpler images of “mixed” European and First Nations people and communities, and provided a more extended context for understanding events such as those that transpired at Red River in today’s Manitoba in 1869–70. In part, *The New Peoples* redrew the boundaries of Canadian *métissage* by highlighting the connections between Métis of the Great Lakes and of the West and introducing the possibility of uniquely localized manifestations of Métis communities. Great political changes were afoot around this time; as part of the repatriation of the Canadian Constitution in 1982, Métis were recognized as Aboriginal peoples possessing Aboriginal rights, which, in turn, led to legal work towards establishing a definition of those rights. The *Powley* decision of 2003, in which the Supreme Court of Canada recognized both Métis rights and communities, marked a new chapter in Métis-State relations. A great deal of research, both historical and sociological, and sometimes both, has been spurred by this decision (e.g., Lischke and McNab 2007) and by the Peterson and Brown volume.<sup>3</sup>

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<sup>1</sup> The ideas in this article have their origins in many conversations, and we thank all those with whom we have discussed them. We are particularly grateful to Joe Desjarlais, Hamar Foster, Keith Henry, Kerry Sloan, Dean Trumbley, Bruce Watson, and Graeme Wynn.

<sup>2</sup> This article focuses on the use and meaning of the term Métis and on how different meanings have different consequences for people. We do not pre-define the term as forcing closure at the outset does no service to understanding the issues involved.

<sup>3</sup> The history of the nineteenth-century fur trade colony of Red River near present-day Winnipeg, in Rupert’s Land as a whole, and across the St. Lawrence–Great Lakes fur trading system based in Montreal has been interpreted as a Métis experience by a great number of scholars. These include Girard (1945), Sprage and Frye (1983), Peterson and Brown (1985), Foster

In this article, we offer a small contribution to the emerging literature on Métis and *métissage*, based on a particularly British Columbian experience, shaped by the history of Métis in British Columbia and by contemporary understandings of the significance of that history. With the exception of the Métis in the northeast corner of the province (Andrews 1985; Leonard 1995; Grabowski and St. Onge 2001), rather little has been written about Métis in British Columbia (as exceptions, see Evans et al 1999; Evans and Krebs 2004; Goulet and Goulet 2008),<sup>4</sup> and here we seek to rectify that in some small measure. Our primary concern is less the history of Métis in British Columbia than the contemporary significance of historical processes of *métissage* for peoples living in British Columbia today. As both individuals and members of communities, people of interracial<sup>5</sup> origins struggle to understand their place within Canada and, most recently, within the meaning of the term Métis in the Canadian Constitution. In many ways, today's uncertainty over who is Métis arises from conflicting views of the historical processes involved in what Peterson and Brown call being and becoming Métis.

The complexities associated with being, and becoming, Métis in British Columbia go back two centuries. The first person recorded as Métis to make a life in the future province was Jean Baptiste Boucher, one among two dozen men, mostly French Canadian by birth or descent, who accompanied North West Company partner Simon Fraser in establishing fur trading posts across the central interior in 1805-07. When Fraser and most of the others returned east in 1808, young Boucher, then about twenty years old, remained behind.

Nicknamed Waccan, Boucher became an invaluable linchpin of the fur trade centred at Fort St. James, located west of today's Prince George. He was employed by the North West Company and then by the Hudson's Bay Company after it absorbed its competitor in 1821. The most evocative portrait of the man comes from Oblate priest Father Adrien Morice, who arrived at Fort St. James in 1885 and sought to learn as much as he could about this area known during the fur trade as New Caledonia. As well as oral testimony, Morice drew on hundreds of letters and journals hidden away in the post's attic (Mulhall 1986, 166). It was on this basis that he assessed Boucher.

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(1985), Pannekoek (1991), Ens (1996), Pannekoek (2001), Chartrand (2002b), Devine (2004), St. Onge (2004), Macdougall (2006), Foster (2006), and Lischke and McNab (2007).

<sup>4</sup> As partial exceptions, see Pennier (1972), Inkster (2001), and Barman (1996, 1998, 1999a, 1999b, 2001, 2004a, 2004b, 2005b, 2006).

<sup>5</sup> We use the terms "interracial" and "interraciality" throughout this article to refer to Aboriginal people, families, and communities of mixed First Nations and white ancestry.

[Boucher] was the perpetual right arm of the successive [post] managers, their *ex officio* lieutenant, who was repeatedly entrusted with the charge of the main fort during the absence of its official head. Chief Factors came and Chief Factors went, but Waccan stayed under all governments. Finally, he was by regular appointment the interpreter of the central post, and by birth nothing else than a poor French Cree half-breed. (Morice 1906, 253)

Father Morice's description of Boucher as a "French Cree half-breed" is attested to by earlier priests who describe him and also his wife Nancy McDougall, at their children's baptisms and marriages, as "Métis," the French-language equivalent of half-breed (Munnick 1972, Vancouver II, B202; Munnick 1979, Register I, 67, B-139, and 72, M-25).<sup>6</sup> Both the French and English terms were in common use to describe persons who combined "white," the general term of the day, and Aboriginal descent. Boucher's Cree ancestry suggests he was born into a fur trade family in Rupert's Land, the huge area of north central North America extending southwest from Hudson Bay through Red River into parts of Saskatchewan and Alberta, which was at the heart of the fur trade.<sup>7</sup> Nancy McDougall was the daughter of a local Carrier woman and a Scots fur trade clerk who had also arrived with Fraser and remained in New Caledonia.<sup>8</sup> Boucher's utility is indicated by his marriage to the daughter of a clerk, above him in fur trade status, and by their being permitted their own house in which to raise their family. All eleven of the children who survived into adulthood worked in the fur trade or were married to men who did (Morice 1906, 253).

Boucher was one of many fur trade employees who, during the first half of the nineteenth century, formed families in the future British Columbia with Aboriginal or part-Aboriginal women. Some, like Boucher, were born into the fur trade; others, such as Charles Touin, were hired directly from Quebec, in his case as a steersman on the canoes used on inland waterways. A generation younger than Boucher, Touin, whose family name soon became Twan, worked from 1833 to 1861 almost entirely

<sup>6</sup> Boucher had earlier partnered with a local woman, as recorded in 1811 by the trader in charge of Fort St. James: "March 18 [1811], Monday. My Interpreter (Baptiste Bouché) has taken to Wife the Daughter of one of the Carrier Chiefs & she is the first Woman of that Tribe kept by any of the White People" (18 March 1811 entry, in Harmon [2006, 122]).

<sup>7</sup> Carrier oral tradition has Boucher born in today's Manitoba (Hall 1992, 65).

<sup>8</sup> The Bouchers' daughter Ellen termed herself a Carrier half-breed in the 1901 manuscript census. Little is known about the personal life of Nancy McDougall's father James McDougall apart from a capsule biography (Wallace 1934, 457). Born about 1783, he joined the North West Company in 1798 and was one of three clerks who came west with Simon Fraser. McDougall worked in New Caledonia until 1830, when he returned east to the Montreal region.

out of Fort Alexandria south of Fort St. James (*Tribute to the Past* 1985, 13-17). With a local Chilcotin woman, Mary Cletses, he had a son named John, who was born in 1850 and who followed him into the fur trade. A child of the early 1880s knew the elderly Charles Touin as “a person of great reputation ... once the boldest and most skillful steersman on the river.” To the young Constance Lindsay Skinner, he was “the old canoeman who made her incredibly gorgeous snowshoes” and who hobbled around the Quesnel store her father ran for the Hudson’s Bay Company on “crutches, which are iron-spiked for icy going” (Skinner 1932, 104-5).

#### THE PROBLEM

The Boucher and Twan families exemplify current and historical uncertainties about the processes of being, and becoming, Métis in British Columbia. Jean Baptiste Boucher and Nancy McDougall were each identified in their own lifetimes as Métis. Charles Touin’s son John was termed a “half-breed” on his marriage to a woman of similar background to himself (British Columbia, 881-09-172951). Whereas Boucher brought his interracial identity with him, Nancy McDougall and John Twan acquired theirs in British Columbia.

In line with the distinction coined by historians Peterson and Brown a quarter of a century ago, the cases of the Boucher and Twan families frame a question of considerable contemporary importance: as well as *being* Métis in British Columbia, is it also possible to *become* Métis in British Columbia? The claim that Boucher, as a French-Cree half-breed likely from Rupert’s Land, is legitimately Métis in the sense in which the term is used by such national advocacy organizations as the Métis National Council is relatively unproblematic. Boucher brought his Métis identity with him from a part of today’s Canada broadly recognized as within the “Historic Métis Nation” and then passed it on to his descendants. They continue to be Métis, should they so choose; whereas Charles Touin’s descendants, by virtue of becoming interracial in the future province, are far less likely to find acceptance as Métis.

In British Columbia being Métis and becoming Métis have become quite different matters. In the legal and political contexts of the early twenty-first century, the question of who is Métis is not answered simply by determining whether one is of mixed Aboriginal and white ancestry but, rather, by determining how this is so, from whom one is descended, and from where one originates. From a legal perspective, the

issue of who and what comprises the Historic Métis Nation precedes the issue of who is Métis. In play are not simply the facts of the creation of interracial families and communities in British Columbia but also the evaluation of which elements of identity matter most.

#### MÉTIS IN THE CANADIAN CONSTITUTION

According to Section 35 of the Canadian Constitution, 1982, which replaced the British North America Act, 1867, the Métis are one of the Aboriginal peoples of Canada. Section 35 reads: "(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed. (2) In this Act, 'aboriginal peoples of Canada' includes the Indian, Inuit and Métis peoples of Canada."<sup>9</sup> The Constitution did not define what was meant by the term "Métis."

Including the word "Métis" in the Canadian Constitution proved to be easy compared to determining to whom it referred. The word "Métis" was historically the French-language equivalent of half-breed,<sup>10</sup> and it was a way of describing groups of people in Canada with a long history of interraciality, generally understood as originating in the fur trade. Between the suppression of Louis Riel's Métis Resistance in 1870 and 1885 in Rupert's Land, the Half-Breed Scrip commissions of the late nineteenth and early twentieth centuries, and the Canadian Constitution, 1982, the consequences of being Métis were largely social and economic.<sup>11</sup> After 1982, the legal and constitutional rights arising from being Métis increasingly came to the fore. While tensions between those identifying themselves as Métis based on descent from a historic "Nation" and those whose attachment to the term related to an Aboriginality more broadly construed preceded 1982 (Tennant 1982), the definition of the term became more urgent and consequential after the Constitution was rewritten. The benefits linked to being Métis have begun to be defined

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<sup>9</sup> There are two other subsections, which read as follows: "(3) For greater certainty, in subsection (1) 'treaty rights' includes rights that now exist by way of land claims agreements or may be so acquired. (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons." We exclude the third category in the Canadian Constitution, Inuit, from consideration only because so few of these northern peoples, about 795 in 2006, live in British Columbia (Census of Canada 2006).

<sup>10</sup> According to Teillet (2006, 4), "the constitutional use of the term 'Métis' in 1982 replaces the previous term 'Half-breeds' in English legal language."

<sup>11</sup> We generally avoid the term "Red River" Métis, as it is inherently misleading. Not even the MNC suggests that the term "Métis" be restricted to people or families that were once part of the Red River settlements, no matter that the Red River remains for many a key historical touchstone for thinking and talking about the Historic Métis Nation.

through the courts (so far, and relatively recently, relating mostly to harvesting and hunting rights, but they may extend to land [Teillet 2006]) and through agreements with provincial and federal governments. These changes make increasingly significant the meanings attached to being, and becoming, Métis in British Columbia.

### THREE APPROACHES TO BEING, AND BECOMING, MÉTIS IN BRITISH COLUMBIA

Some of the confusion over being, and becoming, Métis in British Columbia is attributable to the federal government's failure to define the term "Métis" in the Canadian Constitution, 1982.<sup>12</sup> Indeed, the federal government maintains what legal scholar Jean Teillet (2008, 63) terms "a policy of Métis denial." No federal registry exists comparable to that maintained for status Indians (63-67).<sup>13</sup> The federal government's gloss of the term "Métis" essentially leaves the task to others:

Historically, the term "Métis" applied to the children of French fur traders and Cree women in the Prairies, and of English and Scottish traders and Dene women in the North. Today, the term is used broadly to describe people with mixed First Nations and European ancestry who *identify* [and the word is emphasized] themselves as Métis, distinct from Indian people, Inuit, or non-Aboriginal people. (Many Canadians have mixed Aboriginal and non-Aboriginal ancestry, but not all identify themselves as Métis.) Note that Métis organizations in Canada have differing criteria about who qualifies as a Métis person. (Canada 2004)

Three distinctive approaches to being, and becoming, Métis currently prevail in British Columbia. Each has quite different consequences for those of Aboriginal interracial backgrounds with regard to whether they qualify to be Métis, should they so choose.

<sup>12</sup> The federal government's indirect role, most particularly the establishment of the Office of the Federal Interlocutor for Métis and Non-Status Indians to "help further the efforts of Métis, Non-Status Indians and urban Aboriginal people in order to help them realize their full potential economically, socially and politically in Canadian society," is described on <http://www.ainc-inac.gc.ca/interloc/index-eng.asp> (accessed February 28, 2009).

<sup>13</sup> Note that Métis registries are currently being created by the member organizations of the MNC, and, indeed, this process has been bringing the issue of identity squarely to the fore.

*A sociologically exclusive, nation-based approach*

The final sentence in the federal gloss acknowledges that several groups have an interest in the term “Métis.”<sup>14</sup> One of the most determined is the Métis National Council (MNC), which was formed in 1983, a year after the Constitution was enacted. According to anthropologist Joe Sawchuk, one of its goals was to restrict the term “Métis,” exclusively, to Aboriginal mixed-race descendants of the Red River colony (Sawchuk 2000, 78–79, 82; Morse and Groves 2002, 214; Chartrand and Giokas 2002, 290–94). Although the MNC may no longer hold so closely to this position, Red River remains a significant anchor point for the conceptualization of the Historic Métis Nation, a central feature of the MNC definition of a Métis person.<sup>15</sup> The boundaries of the Historic Métis Nation’s homeland are based on the traditional territory of the Métis people in west central North America. This territory roughly includes the three Prairie provinces (Manitoba, Alberta, and Saskatchewan); parts of Ontario, British Columbia, and the Northwest Territories; and parts of the northern United States (i.e., North Dakota and Montana) (Métis National Council 2008).

In May 2006, the British Columbia Ministry of Aboriginal Relations and Reconciliation aligned itself with this nation-based position by signing an accord with the MNC’s provincial affiliate, Métis Nation British Columbia (MNBC). The two parties agreed to “follow through on ... Aboriginal issues as they pertain to Métis people and their aspirations” (British Columbia 2006). The accord commits the provincial government to support MNBC’s health care, housing, education, and employment initiatives, which are intended to improve the life circumstances of Métis people. In practice, both the federal and provincial governments contribute to MNBC’s finances. At the present time, MNBC

<sup>14</sup> The two principal organizations at the present time are the Métis National Council, discussed in the text, and the Congress of Aboriginal Peoples (CAP), formerly the Native Council of Canada (which was formed in 1971). CAP is committed to representing all “forgotten” Aboriginal peoples, who are described as “off-reserve and non-status Indians and Métis people, living in urban, rural and remote areas of Canada” (Congress of Aboriginal Peoples 2008; also Chartrand and Giokas 2002, 289–90).

<sup>15</sup> To be exact, the MNC’s definition of Métis, adopted on 27 September 2002, reads: “THEREFORE BE IT RESOLVED that the Métis Nation adopts the following defined terms for its national definition of Métis; ‘Historic Métis Nation’ means the Aboriginal people then known as Métis or Half-Breeds who resided in Historic Métis Nation Homeland; ‘Historic Métis Nation Homeland’ means the area of land in west central North America used and occupied as the traditional territory of the Métis or Half-Breeds as they were then known; ‘Métis Nation’ means the Aboriginal people descended from the Historic Métis Nation, which is now comprised of all Métis Nation citizens and is one of the ‘aboriginal peoples of Canada’ within s.35 of the Constitution Act of 1982. Motion carried unanimously, 27 September 2002” (Métis National Council 2008).

“rel[ies] on government funding for all its operation” (Métis Nation British Columbia 2007a).

For want of a federal Métis registry, the MNC and its provincial affiliates set the criteria for qualification as Métis and the processes governing their application. The accord with the BC government states that MNBC will engage in “Métis identification” in the province (British Columbia 2006). A statement on the organization’s website explains that “Métis identity is verified through Métis ancestry” (Métis Nation British Columbia 2008a). MNBC’s application form for what is termed “Métis citizenship” requires a sworn statement that the applicant does not hold status as an Indian under the Indian Act, a five-generation genealogy going back in time at least to 1901, and acceptance by what it terms a “chartered Métis Community” (Métis Nation British Columbia 2007b, 6).

MNBC is open about its mandate to represent only those people and communities linked to the Historic Métis Nation, which is now, as in the past, centred conceptually on the events and people associated with Red River. Though the notion of the Historic Métis Nation is clearly not limited or exclusive to Red River, in practice the cluster of historic and cultural elements most closely associated with the area is the focus of attention. For example, the MNBC Annual General Meeting (AGM), held in Kelowna from 21 to 23 September 2007, opened with a prayer “alternating between the English and Cree languages.” Immediately thereafter, one of the regional directors<sup>16</sup> “accompanied by a guitarist and jiggers performed ‘Red River Jig’” (Métis Nation British Columbia 2007c).<sup>17</sup> Later, at the AGM, the MNBC regional director serving as minister responsible for culture, language, and heritage described “a future in which our children, their children and generations of children after them will speak Michif, the national language of the Métis as a defining element of our identity” (Métis Nation British Columbia 2007c).<sup>18</sup>

<sup>16</sup> The MNBC is governed by a provincial board of directors consisting of an elected president, vice-president, women’s chairperson, youth chairperson (elected by province-wide vote), and seven regional directors (elected from within each region).

<sup>17</sup> Among those present at the opening were several national and provincial dignitaries, including the minister of Aboriginal Relations and Reconciliation, who immediately thereafter brought greetings from the province.

<sup>18</sup> This direction is consistent with the results of an MNBC provincial survey conducted earlier in 2006, primarily focusing on “individuals who meet the Métis National Council national definition of Métis.” While just 14 percent had spoken Michif at home, 64 percent were interested in learning it (Hutchinson, Evans, and Reid 2007, 21, 53-54). According to Jean Teillet (2006, 84): “The Métis National Council and its provincial governing members are the legitimately elected leadership of the Métis people in the Métis Nation and therefore have the right and the responsibility to enact policies, laws and regulations which will ensure that

A recent brochure published by MNBC describing its mandate and activities hints at some of the very real complexities underlying being, and becoming, Métis in British Columbia. The section of the brochure entitled “History of Métis (BC)” reads:

The Métis presence in BC was, as in much of the rest of North America, linked to the introduction of the Fur Trade. As early as the 1790s significant numbers of Métis were present in the Peace River drainage and eastern slopes of the Rockies. Both the Hudson’s Bay Company and the Northwest Company were active in the area. Of particular importance were bands of Iroquois and Métis freemen operating as independent trappers in the northern parklands of the Athabasca and the eastern slopes. In addition numerous Métis fur trade employees and their families could be found throughout the Columbia (present day southern BC and Washington State) and Athabasca (present day northern BC, Alberta, and Southern NWT) Fur Trading Departments or Districts. (Métis Nation British Columbia 2008b)

The description then goes on to acknowledge the challenges of understanding and describing Métis in British Columbia according to MNC criteria:

Historical evidence about these communities is more limited than that available from the rest of the Métis Homeland areas due to the early and profound unwillingness of first the Colony of BC, and then the Province of BC to recognize Aboriginal rights and title generally, and Métis rights specifically. When the Treaty Eight Commission [which includes northeastern British Columbia lying on the east side of the Rocky Mountains] and the accompanying “Half-Breed Scrip Commission” traveled through BC and the Northwest Territories [present-day Alberta and Saskatchewan] at the turn of the 20<sup>th</sup> Century, the Half-Breed Scrip Commission was not permitted to operate inside BC, and thus a very important source of historical information was lost. (Métis Nation British Columbia 2008b)

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Métis people can continue to support their lives by hunting and fishing.” Such a comment is consistent with her statement that “it seems likely that groups who were not commonly understood to be ‘Métis’ in 1982 would not meet the plain language test set out by the Supreme Court of Canada in *Blais*,” which centred on whether Métis were “Indians” for the purpose of natural resources transfer agreements and, thereby, whether they were such at the time the agreement was enacted in 1930 (9).

There is some tension between MNBC and MNC positions on the boundaries of the Métis Nation Homeland. While unanimity exists around the notion that the Métis Nation must be viewed as a coherent sociological unit that is bounded politically by historic realities, the MNBC position is that the Métis Nation Homeland, and the Métis Nation, extends well into British Columbia. Weinstein (2007, 172) notes the ambivalence with which the Prairie Métis associations regard the inclusion of both British Columbia and Ontario in the MNC.

In June 2005, this ambivalence found expression in an MNC press release regarding the launch of the Métis Archival Project (MAP) at the University of Alberta: “MAP is also using archival documents to track the historical movements of the Métis in the Métis Nation Homeland – primarily the areas now known as Ontario, Manitoba, Saskatchewan and Alberta” (Métis National Council 2005). The press release generated a concerned letter from interim MNBC president Bruce Dumont, who called for discussion by the MNC Board of Governors and urged that the MNC not lend authority to statements such as this, which omitted British Columbia.

### *A legal approach*

A second approach to being Métis derives from two recent court decisions – *Regina v. Powley* (Supreme Court of Canada 2003) and *Regina v. Willison* (Provincial Court of British Columbia 2006). While the *Powley* decision, delivered by the Supreme Court of Canada on 19 September 2003, related specifically to a father and son from the Sault Ste. Marie area of northwestern Ontario harvesting for food as an Aboriginal right, it gave more general guidance on being Métis:

The term “Métis” in s. 35 does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their own customs, way of life, and recognizable group identity separate from their Indian or Inuit and European forebears. Métis communities evolved and flourished prior to the entrenchment of European control, when the influence of European settlers and political institutions became pre-eminent. (para. 10)<sup>19</sup>

<sup>19</sup> A later section of the *Powley* decision makes this critical point in another way: “The test for Métis practices should focus on identifying those practices, customs and traditions that are integral to the Métis community’s distinctive existence and relationship to the land” (para. 37).

The emphasis throughout the *Powley* decision is on communities rather than on individuals: “Aboriginal rights are communal rights: They must be grounded in the existence of a historic and present community, and they may only be exercised by virtue of an individual’s ancestrally based membership in the present community” (para. 24). However, rather than “the pre-contact test” for the emergence of rights-bearing communities (para. 14) demanded of Aboriginal peoples in the earlier *Van der Peet* decision (Supreme Court of Canada 1996), which specifically excluded Métis, *Powley* acknowledges that “Métis cultures by definition post-date European contact” (para. 16). The *Powley* decision looks to “the post-contact ethnogenesis of the Métis” (para. 36) and emphasizes that “the focus should be on the period after a particular Métis community arose and before it came under the effective control of European laws and customs” (para. 37).

With specific reference to the Sault Ste. Marie area, the decision links “the entrenchment of European law and customs” (para. 10) with treaty making (para. 39). “The historical record indicates that the Sault Ste. Marie Métis community thrived largely unaffected by European laws and customs until colonial policy shifted from one of discouraging settlement to one of negotiating treaties and encouraging settlement in the mid-19th century” (para. 40).

The *Powley* decision acknowledges that communities might “decrease in visibility” (para. 24), even go “underground, so to speak” (para. 27), and become “to a large extent an ‘invisible entity’” (para. 24). Such developments, the decision suggests, might stem, as they did in the Sault Ste. Marie area, from interference with, but not the elimination of, traditional practices of hunting and harvesting; the loss of much of the land base; and a disinclination to be identified as Métis in the face of hostile public opinion (para. 25-26, based on Lytwyn [1998]). Another section of the decision draws attention to Great Lakes communities, which continued to stand apart from “neighboring Indian villages and ‘white towns,’” where people were “intermarrying among themselves and rearing successive generations of métis, while adapting to their particular environments (para. 42, based on Peterson [1985, 41]).<sup>20</sup> Very significantly for Métis in British Columbia, the *Powley* decision does not limit rights-bearing communities to single places of origin in Canada or to the fur trade. Indeed, it quotes the Royal Commission on Aboriginal Peoples report of 1996 in reference both to the fur trade and to Labrador fishing

<sup>20</sup> Members in the various Métis communities continued to live off the resources of the land and the water (para. 43).

communities originating with European men and local women (para. 10, based on Canada [1996, 199-200]).

The *Powley* decision recognized that “[t]he Métis of Canada share the common experience of having forged a new culture and a distinctive group identity from their Indian or Inuit and European roots” and that this enabled Canadians to speak in general terms of “the Métis.” However, the judgment continued: “particularly given the vast territory of what is now Canada, we should not be surprised to find that different groups of Métis exhibit their own distinctive traits and traditions. This diversity among groups of Métis may enable us to speak of Métis ‘peoples,’ a possibility left open by the language of s. 35(2), which speaks of the ‘Indian, Inuit, and Métis peoples of Canada.’” (para. 11) The *Powley* decision does not pretend to determine the total number of Métis or locations of Métis communities across Canada, arguing that the court had only “to verify that the claimants belong to an identifiable Métis community with a sufficient degree of continuity and stability to support a site-specific aboriginal right.” (para. 12)<sup>21</sup> It does contain what has become known as the *Powley* test, which emphasizes a link between past and present: “The ‘continuity’ requirement puts the focus on the continuing practices of members of the community, rather than on the community itself” (para. 27) and requires “three broad factors as indicia of Métis identity for the purpose of claiming Métis rights under s. 35: self-identification, ancestral connection, and community acceptance” (para. 30).<sup>22</sup> A final crucial element of this decision is that the nature of

<sup>21</sup> Also, in respect to single places of origin: “A Métis community can be defined as a group of Métis with a distinctive collective identity, living together in the same geographic area and sharing a common way of life. The respondents here claim membership in the Métis community centred in and around Sault Ste. Marie. It is not necessary for us to decide, and we did not receive submissions on, whether this community is also a Métis ‘people,’ or whether it forms part of a larger Métis people that extends over a wider area such as the Upper Great Lakes” (para. 12).

<sup>22</sup> Each of these three factors is specified in the decision. Self-identification “as a member of a Métis community ... should not be of recent vintage” but “need not be static or monolithic” (para. 31). The ancestral connection must be “to a historic Métis community whose practices ground the right being claimed” (para. 32). Of the three elements, “verifying membership is crucial, since individuals are only entitled to exercise Métis aboriginal rights by virtue of their ancestral connection to and current membership in a Métis community” (para. 34). Acceptance must be “by the modern community [underlined in original] whose continuity with the historical community provides the legal foundation for the right being claimed” (para. 33). As to means for doing so, “Membership in a Métis political organization may be relevant to the question of community acceptance, but it is not sufficient in the absence of a contextual understanding of the membership requirements of the organization and its role in the Métis community. The core of community acceptance is past and ongoing participation in a shared culture, in the customs and traditions that constitute a Métis community’s identity and distinguish it from other groups. This is what the community membership criterion is all about. Other indicia of community acceptance might include evidence of participation in

a “community” is not defined. This lack of definition parallels the MNC position that the Historic Métis Nation is a Métis community, albeit a geographically expansive and complex one.

The *Willison* decision of 26 June 2006 (Provincial Court of British Columbia 2006) refined the issue of Métis identity from a BC perspective.<sup>23</sup> In this case the Supreme Court of British Columbia overturned a lower court decision by ruling against a BC man with Métis roots in the Prairies. Gregory Willison was attempting to assert his right to hunt, under Section 35 of the Constitution, along a one-time fur brigade trail running from Kamloops south through the Okanagan Valley. He did so partly on the basis of his kinship with Jane Klyne, a Métis woman married to white fur trader Archibald McDonald, both of whom had been resident in the area in the early nineteenth century (Cole 2001). The Supreme Court of British Columbia ruled against Willison not because the setting was British Columbian but, rather, because it held that, for the *Powley* decision to apply, “there must be evidence of a community on the land” (para. 24) that goes beyond “a small number of Métis in the area for a relatively short period of time” (para. 32) while employed in the fur trade.

In reaching this decision, the Court accepted the Crown’s contention “that most of the Métis who were employees of the Hudson’s Bay Company left the area at the end of their careers” (para. 31). In doing so, the Court was influenced by the testimony of a defence witness in the original trial who said that “there was no evidence of fur traders putting down roots at either Fort Kamloops or Fort Okanagan” (para. 31).<sup>24</sup> The decision, then, was largely constrained by the limits of the facts given in evidence in the original trial. In other words, the decision does not preclude a different result with a different set of facts. On this caveat,

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community activities and testimony from other members about the claimant’s connection to the community and its culture. The range of acceptable forms of evidence does not attenuate the need for an objective demonstration of a solid bond of past and present mutual identification and recognition of common belonging between the claimant and other members of the rights-bearing community” (para. 33).

<sup>23</sup> Teillet (2006, 27) also notes the *Nunn* case of 2003, which, like *Willison*, centred on the Okanagan Valley. She attends with considerable detail to the *Willison* case (41-43), which, at the time of writing, had been found for the defendant, overturned, and was heading to the Supreme Court of British Columbia.

<sup>24</sup> The principal defence witness was Michael Angel, who explained on the stand that his insights came from published sources. His testimony indicates that his understandings were very broadly based, mostly relating to areas around Fort Vancouver and present-day Oregon and Washington, rather than British Columbia or the area in question (Provincial Court of British Columbia 2004).

both the *Powley* and *Willison* decisions, and the law of the land, open up the possibility of becoming Métis in British Columbia.

### *A self-identifying approach*

The third approach to being, and becoming, Métis in British Columbia reflects the federal government's observation that "today the term is used broadly to describe people ... who *identify* themselves as Métis."<sup>25</sup> Consistent with this approach, the Canadian census permits individuals to select Métis as a single or one of several "ethnic origins." In 2006, 59,445 British Columbians, or one in every seventy, identified themselves as Métis, up from 45,265 in 2001. Of those Canadians who described themselves as Métis across Canada in 2001 and 2006, one in seven (15 percent) lived in British Columbia (Table 1).

This third approach does not relate directly to rights-bearing communities, but it can facilitate access to services and, possibly, a sense of community, both of which are of value.<sup>26</sup> An example of this linkage is Metis Community Services of Victoria, which has a mandate "to research, develop, deliver and evaluate human service programs for the Metis community of Vancouver Island." According to the MCS website, "broadly speaking, a Metis person is someone who is of mixed North American Aboriginal and European ancestry, and who self-identifies as Metis" (Metis Community Services). While "there may be as many definitions of 'Metis' as there are mixed-race peoples who use the word," Metis Community Services of Victoria follows "the definition of 'Metis' used by Census Canada [which] was not limited to 'Red River' or 'Michif' Metis, but included everyone who was of Aboriginal ancestry and who self-identified as 'Metis'" (Metis Community Services).

<sup>25</sup> Chartrand and Giokas (2002, 291) describe the approach of the Métis National Council's principal competitor, the Congress of Aboriginal Peoples, as attracting "persons who view Métis identity as a preferred label for self-identification."

<sup>26</sup> Teillet (2006, 8) refers to "access to programs and services and educational facilities."

TABLE 1  
*Self-Identified Métis/Halfbreeds in Canada, 1901,  
 and Métis, 2001 and 2006*

LOCATION	MÉTIS/ HALFBREEDS 1901		MÉTIS 2001		MÉTIS 2006	
	no.	%	no.	%	no.	%
Newfoundland/ Labrador	-	-	5,480	1.9	6,470	1.7
Prince Edward Island	4	NEG	220	NEG	385	NEG
Nova Scotia	87	NEG	3,135	1.1	7,680	2.0
New Brunswick	156	NEG	4,290	1.5	4,270	1.1
Quebec	976	2.8	15,855	5.4	27,980	7.2
Ontario	5,003	14.5	48,340	16.5	73,605	18.9
Manitoba	10,371	30.0	56,800	19.4	71,805	18.4
Saskatchewan	7,949	23.1	43,695	14.9	48,120	12.3
Alberta	3,686	10.7	66,060	22.6	85,495	21.9
British Columbia	3,461	10.0	44,265	15.1	59,445	15.3
Unorganized territories	2,788	8.1	-	-	-	-
Yukon Territory	-	-	535	NEG	800	NEG
Northwest Territories	-	-	3,580	1.2	3,580	-
Nunavut	-	-	55	NEG	130	NEG
Canada	34,481		292,305		389,780	

Source: Census of Canada 1901a, 2001, 2006.

## BACK TO EARLY BRITISH COLUMBIA

These three distinctive approaches to being, and becoming, Métis provide a basis for returning to the lives of Jean Baptiste Boucher and Charles Touin and to all the other early British Columbians whose families embodied Aboriginal interraciality. In considering the possibility that these families formed rights-bearing communities, we suggest that the early twentieth century rather than the mid-nineteenth century best marks, in the words of the *Powley* decision, “the entrenchment of European law and customs” (para. 10) in British Columbia.<sup>27</sup> Beyond the province’s populous southwestern corner centred on Victoria and then Vancouver, governance was nominal, in some locations virtually non-existent, through the end of the nineteenth century. Only with the formation of provincial political parties in 1903 and the boom years prior to the First World War, during which British Columbia’s population expanded two and a half times to half a million, did “the influence of European settlers and political institutions became pre-eminent” across the province.

The Canadian census of 1901, which was the first to include questions about race, offers valuable insight into the incidence and character of interracial families in British Columbia and Canada. In that year, 3,461 British Columbians were identified as Métis or half-breed.<sup>28</sup> They accounted for one-seventh of all Canadian Métis and amounted to one in every fifty of all those living in British Columbia (Table 1).<sup>29</sup>

During the nineteenth century, three waves of newcomers interacted with local Aboriginal people and formed interracial families. The earliest were fur traders such as Boucher and Touin. Of the 1,200 to 1,500 men who worked in the fur trade in British Columbia during the first half of the nineteenth century, about half were French Canadian, of whom several hundred were described at the time as Métis or possibly Iroquois or Abenaki. Almost as many had British origins, including virtually all of those in charge. A smaller group were indigenous Hawaiians, hired

<sup>27</sup> According to Teillet (2006, 20), “the date of effective control (after the Métis community’s practices arose but before the community came under the control of European laws and customs) will be different across the country.”

<sup>28</sup> There is some difficulty in assessing the degree to which people in the census were self-identified or identified as interracial by the census enumerator. Nonetheless, interracial categories were identified and used, and we can presume with some degree of certainty that the identifications reflected a shared sociological reality.

<sup>29</sup> The year 1901 was not chosen as an end date because later arrivals could not be Métis. Among these were Prairie migrants from what the MNC terms the “Historic Métis Nation.” The group moving in about 1910 to Kelly Lake in the province’s far northeast has been described by Gerry Andrews (1985), while those heading later on to the Prince George area have been described by Mike Evans et al (1999).

directly from the Hawaiian Islands (Barman and Watson 2006). While some of these men returned home, others made their lives in British Columbia. Our best estimate is that about four hundred, over half of them from Quebec or with ancestral origins there, raised families with local Aboriginal or part-Aboriginal women. We estimate that, by 1901, about two thousand British Columbians who identified themselves as Métis or half-breed had fur trade origins.

In the decade beginning in 1858, a second wave of newcomers, consisting of some 30,000 or more miners and others enticed by a gold rush, flooded into British Columbia. Most left soon after. When British Columbia joined Canada in 1871, the non-Aboriginal population stood at just 10,000, the overwhelming majority of them men. At least a thousand of those arriving with the gold rush fathered children by Aboriginal or Aboriginal interracial women. By 1901, some two thousand people bearing the names of those involved in the gold rush and descended from them identified themselves as half-breed or Métis. Several of this group also embodied fur trade descent so that the census enumerated slightly fewer than 3,500 Métis in British Columbia in 1901.

The third wave of nineteenth-century newcomers to British Columbia consisted of Métis and half-breed men, women, and children moving west from the Prairies, often into British Columbia's far northeast. Of the British Columbians describing themselves as Métis or half-breed in 1901, just over one hundred identified their Aboriginal origins as Cree or Dene, although a considerable number simply reported "Indian" and may also have come from the Prairies. There were also Métis freeman groups at Lac Ste. Anne and Big Lake (St. Albert) in Alberta who, from very early on, spent part of the year on the spine of the Rockies (Leonard 1997). Families clearly associated with the Historic Métis Nation were counted at the time of the 1901 census just across the border in Alberta at Dunvegan, Spirit River, and Peace River Landing; a significant subset of these people used areas in present-day British Columbia, though the first significant year-round settlement appears to have been at Kelly Lake in the early twentieth century (Andrews 1985).

FACTORS ENCOURAGING BEING,  
AND BECOMING, MÉTIS IN BRITISH COLUMBIA

Six historical factors encouraged interracial British Columbians to form distinctive communities as defined by criteria specified in the *Powley* decision. The first two were external, the other four were, in part, responses to the first two.

The first factor, and one whose significance cannot be overestimated, was legal separation of the different Aboriginal communities from each other. British Columbia no sooner joined Canada in 1871 than the law intruded to encourage, and even to force, interracial identities. By the terms of union, “the charge of the Indians” passed to the federal government (Fisher 1992, 176–77, clause 13). Five years later, the Indian Act, 1876, imposed a fundamental divide on Aboriginal peoples across Canada. The act restricted federal oversight to status Indians, defined in a patrilineal fashion in line with the assumption in the dominant white society that women were not persons in their own right but, rather, the property first of their fathers and then of their husbands. As spelled out in Article 3, the term “Indian” meant “any male person of Indian blood reputed to belong to a particular band; any child of such person; and any women who is or was lawfully married to such person” (Canada 1876).

In British Columbia, persons deemed to be status Indians were confined to small reserves even though, uniquely in Canada, they almost wholly lacked the treaties that afforded a measure of protection to their counterparts across the country (Foster and Groves 2003; Foster, Raven, and Webber 2007; Harris 2002).<sup>30</sup> Persons denied Indian status – principally Aboriginal women cohabiting with newcomer men and interracial men (whether born in British Columbia or elsewhere in Canada) and their offspring – were prohibited from living on reserves, and, hence, were deprived of sustained contact with the status Indians who were very often their close relatives or friends.

A critical second factor turning interracial British Columbians, to quote the *Powley* decision, into “distinctive peoples who, in addition

<sup>30</sup> Leading scholars, including Hamar Foster and Cole Harris, have incisively interrogated this circumstance, and we do not propose to say any more about it except to add parenthetically that, given the almost complete absence of treaties, it is arguable that virtually no “existing aboriginal and treaty rights” have been extinguished. From a Métis perspective, there is also nothing similar to the Manitoba Act, 1870, in terms of its effect on “half-breed residents” via land (scrip) grants. Indeed, even though northeastern British Columbia was included in Treaty Eight in 1898, Half-Breed Scrip was not issued in British Columbia. See also Teillet (2006, 25 and 35).

to their mixed ancestry, developed their own customs, way of life, and recognizable group identity” was their common experience of racism. They were not only banished from Aboriginal life, which was increasingly centred on reserves, they were often not welcome in the world of their fathers. As the newcomer population grew with the arrival of the transcontinental rail line in 1886, so did racism against anyone who was not white (Barman 1996, 1998, 1999b, 2001, 2004a, 2005a, 2005b).

Examples abound. Local public schools, open to all who were not status Indians, welcomed some students more than they did others. The superintendent of education’s correspondence is filled with teachers’ complaints joining physical appearance with a supposed incapacity to learn. Visiting the school near the fur trade post of Fort Langley, the superintendent wrote in his private diary on 8 June 1877: “Found 21 pupils, chiefly half-breeds and Indians.” Despite recording that learning was better than average, he added at the end of the entry: “Half-breed children very unpromising, dull and stupid and apparently incapable of learning” (Jessop 1872-78). Even sympathetic teachers such as Jessie McQueen, a young Nova Scotian who arrived shortly after the completion of the transcontinental rail line in 1886, differentiated by race. She explained to her mother in a letter home how “there were four half-breed girls there belonging to one family” who “have attended school for years but in spite of that they still have the squaw looks & manners.” An interracial Aboriginal identity was in and of itself suspicious, as is indicated by her reference to “a half-breed girl both slow and stupid, though I suppose she does the best she can” (Barman 2003, 92-93). Even where observations were not wholly critical, they differentiated others by skin colour and so set them apart, by words if not also by actions, from the emerging dominant society.

A third factor was the emergence of geographic clusters, partly as a result of these sorts of marginalization. Given families’ exclusion from their Aboriginal and non-Aboriginal inheritances, and given the economic geography of the time, those who arrived with the fur trade or the gold rush tended to settle down near their places of work, which were fairly limited in range. Clusters grew up around central interior trading posts from the time of Simon Fraser on and, slightly later, around posts in the Fraser Valley (Barman 1999a), southern interior (Barman 1996), along the north coast (Hare and Barman 2006), in the Kootenays (Barman forthcoming), and on Vancouver Island (Barman 2005b). The gold rush moved steadily north from its Fraser River beginnings into the central interior, spawning clusters of interracial families along both

the Fraser River route and the Cariboo Wagon Road to the goldfields whose members lived alongside and sometimes intermarried with their fur trade counterparts. Others with origins in the fur trade or gold rush sought out remote locations, including the Gulf Islands (Barman 2001, 2004a, 2004b), where they could make lives largely on their own terms.<sup>31</sup> This geographical clustering is clearly visible in the 1901 census. In 1901, at least two hundred mixed-race British Columbians lived along the fur brigade trail running from Kamloops south through the Okanagan Valley, indicating, counter to the facts entered in the *Willison* case, that fur trade employees and others had indeed put down roots there.

A fourth factor had to do with occupational limitations. Many newcomers took up land, once it became possible to do so in 1859 and 1860. But in a province where only 3 percent or 4 percent of the land is arable, limited agricultural opportunities combined with the attitudes of the day to push many mixed-race sons into wage labour. Available jobs tended to be at the edges, where physical attributes and a willingness to work hard mattered more than did skin colour, as in trapping, packing, logging, farm work, and cowboying (Knight 1996; Cohen 1998). The marginal nature of such jobs led many of those engaged in them to hunt and harvest for as much foodstuff as possible. By 1901, almost two-thirds of employed interracial British Columbians earned less than the provincial annual average of about \$600 (Census of Canada 1901b). Another 10 percent were at the average, and just a quarter earned more, principally as miners, loggers, deckhands, packers, and freighters.

The fifth factor was social clustering, which, like its geographic and occupational counterparts, encouraged the emergence of distinctive interracial communities. Offspring tended to look inward for their choice of friends and of marital partners. Fully half of interracial sons and daughters intermarried in the second generation (Barman 1999 and ongoing research). Clusters became linked in webs of obligation extending from geographic proximity to the workplace to personal lives.

Sixth, families, clusters, and communities melded into the shadows. Interracial British Columbians eschewed actions that would bring them to the attention of the dominant society, convinced they did not stand much of a chance (Barman 2001, 2004a, 2004b, 2006). The combination

<sup>31</sup> Among specific locations where communities consistent with the *Powley* decision might have emerged are, in alphabetical order, Ashcroft, Cache Creek, Cariboo (both west along the Fraser River and around Williams Lake), Fort Alexandria extending east towards Quesnel, Fort Kamloops (earlier Thompson's River), Fort Langley, Fort Simpson, Hope/Yale corridor, Invermere, (St. Mary's) Mission, Okanagan Mission, Salt Spring Island (around Fulford Harbour), Savona, Sooke, and Vernon.

of everyday racism and occupational and social clustering turned them inward, as did their geographical locations on the edges of what was a very large province, one-tenth the size of the mainland United States, with very limited communication between its parts except by water. As described in the *Powley* decision, families, clusters, and communities “thrived largely unaffected by European laws and customs” and have, in some cases, done so virtually into the present day.

This determination to avert the gaze of a larger society intent on constructing interracial British Columbians as inferior may have been too successful. The ways in which families, clusters, and communities protected themselves across the generations have rendered them invisible. Such observations as “the case of the Métis of western Canada is unique, involving a relatively large local population that was well established prior to the establishment of any significant colonial settlements or governmental authority” applies as much, it might be argued, to parts of British Columbia as it does east of the Rockies (Chartrand 2002a, 24).

#### RETURNING FULL CIRCLE TO THE BOUCHERS AND TWANS

We can see how these six factors interacted by returning to Jean Baptiste Boucher and Charles Touin. The choices their offspring made, or had thrust upon them, exemplify the patterns in many other families of newcomer or interracial men and Aboriginal or interracial women.

Second-generation Bouchers exhibited tight geographic and occupational clustering around the Hudson’s Bay Company. Two of the three elder sons headed south to fur trade posts in present-day Oregon, although one soon returned home. The two elder daughters wed Hudson’s Bay Company men whose careers also took them to Oregon. The returned son, along with three of his brothers and their mixed-race brothers-in-law Charles Favel and Charles Desmarais, both born at Red River, worked alongside second-generation men like John Twan to sustain the New Caledonia fur trade through much of the nineteenth century. Whether due to their fathers’ status or their own tenacity, neither John Twan nor any of the second-generation Bouchers were transferred to other posts, so they were able to maintain the bonds that emanated from their upbringing. Following the Hudson’s Bay Company’s closure of Fort Alexandria, John Twan continued to run a

trading post there, and his account books name Bouchers among his customers (*Tribute to the Past* 1985, 14).

The geographical and social isolation of the central interior encouraged the maintenance of practices distinctive to the fur trade. The mixed-race wife of a third-generation Twan took this way of life for granted: “Candles for light and strong birch bark baskets for washing clothes and rendering bear fat, were all a part of her life. She knew of the days when food was preserved by dehydrating with heat from the sun or fire and needed work horses were free for the taking from the bands of wild horses roaming the land” (*Tribute to the Past* 1985, 15).

Occupational clustering was critical. Of the nine Boucher granddaughters whose single or multiple partners have been traced, those of the seven oldest worked for the Hudson’s Bay Company and then moved into labouring or trapping. These were also the occupations pursued by Boucher and Twan grandsons, who knew each other socially and spent time together (Meason 1892). When John Twan tore down the last “fast crumbling” buildings of the old fur trade post of Fort Alexandria in 1922, its only remaining occupant was a Boucher grandson (Lebourdais 1934).

Geographic and occupational clustering was complemented by social clustering. The seven Boucher sons partnered between them with fifteen women, of whom six were interracial, eight Carrier, and one a woman of combined Iroquois and Nisga’a descent. The four Boucher daughters opted between them for three Métis and two white partners, all but one connected with the fur trade. The eleven Boucher children produced at least eighty-two Boucher grandchildren, fifty-eight of them in British Columbia. Some fifty-nine great-grandchildren were born in British Columbia before 1901, all but nine of them with interracial partners. The Bouchers and Twans intermarried.

As these numbers indicate, at the heart of social clustering was the choice of partners. Generations of Bouchers and Twans partnered with others of similar backgrounds and understandings as this was what was most likely to provide them with social acceptance. Almost all manoeuvred to make their lives close to their parents’ and grandparents’ locations. Even those Boucher and Twan granddaughters who found white husbands did not move very far away. This social clustering was reinforced by family members being the sponsors at the baptisms and marriages both of relatives and of those with whom they were linked by geography, occupation, or friendship, almost all of them similarly interracial.

The geographic, occupational, and social clustering that bound the Bouchers, Twans, and similar families into largely self-sufficient communities had, as part of their glue, the growing racism in the dominant society. While Father Morice's dismissal of Jean Baptiste Boucher as "a poor French Cree halfbreed" (Morice 1906, 253) was published far away in Toronto, Boucher's family was almost certainly aware of the attitudes that spawned that observation. Such comments are especially ironic given that it was families like the Bouchers and Twans who had led efforts to bring Roman Catholic missionaries like Morice into New Caledonia (227-28).

Because manifestations of racism were sometimes subtle, they were potentially all the more wounding. Boucher family members were mainstays behind the public schools established at Fort St. James in 1877 and at Quesnel near Fort Alexandria in 1882. A fellow pupil at the Quesnel school, on its opening, was Constance Lindsay Skinner, who, all her life, gloried in how "I was the only pure white child of school years," the rest being, to use her language, "of mixed blood" (Skinner 1926, 14; Barman 2002). Quesnel's first teacher, Alice Northcott, recalled how the school contained, alongside "Connie Skinner (daughter of the H.B. manager)," principally the offspring of Hudson's Bay Company servants (Early 1955). There is no question but that Skinner knew how to exercise the racial privilege she possessed by virtue of being both white and the daughter of the man in charge.

#### CONCLUDING OBSERVATIONS

The question that emerges from these reflections on being, and becoming, Métis in British Columbia in light of the Canadian Constitution, 1982, is whether families like the Bouchers and Twans, with their interracial origins extending back two centuries, qualify. The broadest of the three approaches to being Métis, based in self-identification, would not present difficulties for either Boucher or Twan descendants or, for that matter, any others with Aboriginal interracial origins, should they choose so to identify. While this approach does not pretend to meet the rights-bearing tests in the *Powley* decision or the membership requirements set by Métis Nation British Columbia, it offers benefits ranging from the material to self-pride. Over the long run, it is possible the practical advantages in this pragmatic approach to being Métis, based in self-identification, could outstrip its counterparts.

The force of law is behind the approach grounded in the *Powley* decision delivered by the Supreme Court of Canada in 2003. The *Powley* test to determine “Métis identity for the purpose of claiming Métis rights under s. 35” (para. 30) has three parts: self-identification, ancestral connection, and community acceptance. Our reading of the case, as non-lawyers, argues that it may be possible, but is no way certain, for both the Boucher and Twan families to claim legal Métis status within a BC setting. Boucher descendants also have the option of tracing an ancestral connection back to Rupert’s Land.

MNC and its provincial arm, MNBC, have adopted an approach that likely limits Métis citizenship in British Columbia to individuals able to document genealogical connections to the Historic Métis Nation. Rather than MNBC extending its horizons to the possibility, in the words of the *Powley* decision, “that different groups of Métis exhibit their own distinctive traits and traditions” (para. 11), it looks to the history of Métis on the Prairies. Given that self-determination is a central demand of Aboriginal peoples in Canada, and self-naming is certainly an aspect of self-determination, this is hardly surprising, but it is nonetheless a sociologically exclusive practice.

The question is how exclusive? Could Jean Baptiste Boucher or his descendants qualify for MNBC’s “Métis citizenship”?<sup>32</sup> What about the Twans? Leaving aside for a moment the issues of self-identification and acceptance by a Métis community, the core question is: are the Boucher and Twan families descended from the Historic Métis Nation? In practice (and again assuming self-identification and community acceptance), it is likely that all descendants of a “French Cree half-breed” probably from Rupert’s Land, as Jean Baptiste Boucher was, would be considered eligible for Métis citizenship<sup>33</sup> but not those descended from someone coming directly from Quebec, as did Charles Touin. Although Boucher arrived in the future British Columbia prior to the Selkirk settlement of Red River and before the crystallization of Métis consciousness in what the MNC terms the Historic Métis Nation and despite the two families’ common history of Aboriginal interraciality in the BC central interior,

<sup>32</sup> Our understanding of the MNBC position is derived from both long familiarity with the organization and analysis of available materials. The authors also met with representatives of MNBC to discuss an earlier draft of this article in order to ensure that our understanding of the MNBC position, policies, and practice were accurate.

<sup>33</sup> Note that, in this discussion, we do not mean to speak for MNBC, nor do we wish to appear to be directing MNBC or MNC as to which families should be accepted as meeting the MNC national definition of Métis. Rather, we employ what we hope is a reasonable interpretation of what the MNBC Registry would conclude, given the MNC definition and proper primary documentation of the genealogical facts we assert.

Boucher and Twan descendants might not fare equally. While it is possible, from the MNBC perspective, to *be* Métis in British Columbia, it is more problematic to *become* Métis, at least insofar as the term refers to the people of the Historic Métis Nation.

Pursuing the MNBC position one step further, here keeping in mind that it has the support of the BC government, we ask whether the territories the Bouchers and Twans used in British Columbia might possibly be considered part of the Historic Métis Homeland. It is important to remember that Métis territories were in some sense shared or common to other Aboriginal nations and so perhaps not restricted to areas in British Columbia. It could be said that the Métis cohabited with other communities over much, if not most, of the areas they used. From the MNBC perspective, territories in present-day British Columbia are not necessarily excluded from conceptualization as part of the Métis Homeland, to the extent that Métis individuals and families are connected to the networks of kin and relationship that gave the rest of the homeland its character. This circumstance is most evident in the northeastern corner of the province, an area that, in fur trade terms, is essentially rooted in the Athabasca region of Alberta, British Columbia, and the Northwest Territories today, but it might also occur in other areas and clusters throughout the province. In this regard, the MNBC position varies in practice from the tendencies of MNC insofar as MNBC may be open to the possibility that both the Twans and the Bouchers formed part of a Métis community tied by custom, tradition, history, and kinship to the Métis Nation Homeland and, thus, are part of the Historic Métis Nation. This distinction does not mean that MNBC would understand all individuals, families, or even communities of mixed ancestry to be Métis in the sense of the Historic Métis Nation, but it does open up potential membership to a broader (albeit still limited) range of individuals.

There is no question but that Aboriginal interraciality has been distinctive in British Columbia, just as it has been in each part of Canada. One element of the BC situation is that families derived from the Historic Métis Nation and interracial families that formed in British Columbia overlapped historically. As the Boucher and Twan examples demonstrate, they intermarried. While some of the 3,461 British Columbians who described themselves as Métis or half-breed in the 1901 census (and also of the 44,265 who did so in 2001 and of the 59,445 who did so in 2006 [Table 1]) had origins extending to the Métis Nation Homeland, many others had BC roots going back in time to the fur

trade and gold rush. The latter may fall beyond the scope of the MNBC approach to Métis identity, but they are, surely, not that different from the Labrador fishing communities acknowledged in the *Powley* decision.

We neither assert nor assume that all Aboriginal interracial communities formed historically in British Columbia meet the *Powley* test to be Métis, much less the requirements put in place by MNBC, but we are concerned that individuals and communities be given the opportunity to make their cases, should they so choose. While the benefits of Métis identity so far relate principally to harvesting and hunting rights, they may well extend, in time, to land. The *Powley* and *Willison* decisions will generate new court challenges, but it is up to governments to take the initiative, either in tandem with MNC and MNBC or otherwise to ensure that Canadian law as expressed in the Canadian Constitution is upheld in British Columbia and across Canada. MNBC is free to represent who it wants among Canada's Métis peoples, but governments are by definition bound to uphold the law. As *Powley* reminds us, "the difficulty of identifying members of the Métis community must not be exaggerated as a basis for defeating their rights under the Constitution of Canada." (para. 49)

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