

The Métis in the 21st Century Conference

June 18-20, 2003

Saskatoon

Day 2 – Tape 2

Start Clip: 01:49:51:28

Jean Teillet: The second thing is identification of what—I don't want to spend the rest of my talk on who are the Métis, except to say this. The, the issue at before *Powley*, *Powley* is not about who are the Métis. It isn't. It's about what's the test for harvesting rights. It's not about who are the Métis. So only to the extent that we have to come up with something to identify the Métis—who can claim the right—did we delve into this question, and we were very clear at the Supreme Court of Canada, in particular. This isn't a reference question. We can't define Métis all across Canada or for the purpose of the Constitution in one case. We can't, we can't do that, nor do we think it's the job of the court to do it. I personally think it is absolutely not the job of the Supreme Court of Canada to define who the Métis people are. I think they have the right to define who can exercise the harvesting right because that's their proper job, because it is in the Constitution. It's the Aboriginal and treaty rights that are protected, so they have a vested interest in setting out the proper principles and test for who can exercise those rights. But who can define the Métis, no.

However, we set out some basic principles, and this is what is sitting on the books, the law right now as from the Court of Appeal, which is that he said he wasn't gonna. Mr. Justice Sharp, at the Court of Appeal, he was not going to define the Métis. He, but he accepted that the Powleys were Métis for the purposes of claiming the ability to exercise the right, because, number one, they self-identified as Métis, as opposed to identifying as Indians or Inuit. Number two, their genealogy showed that they were the descendents of the historic Métis community that claimed the right. In other words, *Powley* does not resolve transport-, transportable rights issues, okay. So, if you're like me, Métis from Red River, and I was to move to Sault Ste.

Marie, Powley doesn't resolve the issue of whether I can exercise that community's rights, because Steve Powley's ancestry goes deeply into the Métis community in Sault Ste. Marie and he's never left. So it's not a portability or mobility of rights case. It won't solve that question or doesn't even touch it. So, it also doesn't solve the issue of whether people who are only from the Indian community lost their status and moved into the Métis community have, can claim the rights, because that again is not the Powleys. Powley's ancestry is from the Métis community that existed there prior to the 1850s, and not only did that, all those markers that Larry was putting out about self-identifying and others have to see you as that, and did you take action, those are all the markers of the Sault Ste. Marie community.

In fact, at the same time as the Sayer trial is happening in Red River, 1849, the Métis, it's often described by historians as an Indian uprising around, the Mica Bay incident. But, in fact, there were more Métis involved in it than there were Indians. And what they did is, they were angry because the government was giving out mining leases in the north shore of Lake Huron, and they knew because of the Royal Proclamation 1763, and the promises made, that the government couldn't do that without entering into treaty with them. So they basically took political action as a group to preserve their rights; this is a Métis community, taking political action to preserve their rights, so they basically, they hijacked the place, they hold them hostage, and they demanded a treaty. That's what they wanted, a treaty.

Now, this kind of action is not unheard of, but what it does is it shows you that there was a self-identifying community there. They were there, ready to preserve their rights, to stand on taking political action, to say we're here and you are not going to come in here and ruin our lives without making a treaty with us. That's the Indians and the Métis standing up together as separate groups to take action to protect their rights. Now, Steve's ancestor happens to be Lesage, who is one of those guys who was the leader of the Métis community, standing up, and, in fact, got charged afterwards for doing that, Steve's direct ancestor. So he is rooted and

genetically connected to the pre-existing historic Métis community in Sault Ste. Marie.

Now, what happened after that? After that, after the treaty, that's when things, the community changes. Robinson, there was evidence given at trial that the treaty commissioner was actually speculating in Métis lands. This is not an unheard story, and that will be the subject of the Manitoba case, Dumas, and also the northwest Saskatchewan place. You know, what were those land speculators doing travelling around with the treaty commissioners? Did the government actually fund them to speculate in lands? What we have in Sault Ste. Marie was direct evidence that Robinson himself was speculating in the lands that he said he promised he would preserve for the Métis people and didn't do. So those issues are all very alive in the Powley case.

Now, what happened after that is the Powleys themselves, the ancestors, took treaty. They moved on to the treaty, on to the Garden River Reserve, although they're members of the Batchewana reserve, but they lived on Garden River. No one's ever figured out why that was. But the other interesting thing that was in the evidence—and this is evidence brought out by the Crown, not by us, and it was fascinating evidence, which is that even though the Métis, some of the Métis moved on to the Garden River reserve, they maintained a completely separate identity. They lived on a different part of the reserve and, in fact, they also, they, they were known as the Half-breed end, and they, they were like the Half-breeds over here.

And, in fact, they were so politically active that there were fights over, they, they actually came to an agreement with the, the Ojibway Chiefs that they would alternate political, political office. So, for two years, the chief would run it, and the next two years a Métis guy would run it, and then two years later the chief would run, and two years later the Métis would run. That's how divided that community was. It was clearly set out. They were on, living on a reserve, but nobody for a second thought that those Half-breeds were Indians or Ojibway for any reason at all. They never did. Indians didn't

think they were and the Métis didn't think they were. And that evidence all came out by the Crown's own, own expert.

End Clip: 01:56:51:08