

METIS PARTICIPATION IN THE TREATY-MAKING PROCESS IN ONTARIO: A RECONNAISSANCE

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INTRODUCTION

The Metis were highly regarded by some commentators in the nineteenth century.² They were recognized as an important part of nineteenth-century Canadian society, particularly in what today is western Canada. Furthermore, the fact that they were of mixed ancestry was often seen to be an advantage rather than a racial handicap. Herman Merivale (1806-74) was a British Imperial commentator and administrator who had more than a quarter century of interest in nineteenth-century Native policy in British North America. In the second edition to his Lectures on Colonization and Colonies published in 1861, he perceptively assessed the Metis in the following way:

There is one mode of amalgamation of the races which it would probably be impossible to prevent, were it desirable: I mean by the mixture of blood. Some observers seem to consider that the multiplication of "half castes" is proceeding at such a rate, wherever unrestricted intercourse exists between natives and whites, as to threaten the extinction of the pure blood of the former. Certainly, in many Canadian and Northwestern tribes, a very large proportion of the present generation is supposed to partake of European blood. Now, this result - except so far as it proceeds from corruption of morals, an enormous evil in new settlements, and one of the great causes of the degradation of aborigines - does not seem, in itself, undesirable. Certainly, the custom of intermarriage between the two races - perhaps even that of forming durable connexions - affords a considerable check to that mutual repulsion which arises merely out of prejudices of colour, and for which there can be no substantial reason where slavery does not exist. And there is strong testimony to the superior energy and high organization of many of these half-blood races.³

For Merivale, "amalgamation" through a sharing of culture and blood meant the development of a new society of which the Metis were the harbinger.⁴

By the late nineteenth century that view of race and of the Metis had changed substantially, thus promoting different and often more negative racial views of, and policies concerning, the Metis.⁵ The North West Rebellion of 1885, for example,

appears to have had little direct impact on the Native people who lived in what is now Ontario; however, it did have some effect on the federal government's Native policy as it developed through the administration of Indian treaties in Ontario. Prior to 1885 Metis in Ontario were involved in treaty negotiations and, in some cases, participated in them as Metis communities. After 1885 they were involved only as individuals and often did not even participate as individual Metis, but rather as "Indians." Federal government policy for Metis in Ontario became a policy of exclusion based on a doctrinaire view of "Indians" as an homogeneous race which should not include people of mixed ancestry. This was quite a different situation than that of government policy on the Prairies where, after 1885, the federal government's attitude was to reject special Metis claims unless the Metis were offspring of an Indian father and a non-Indian mother.⁶

Canadian historians have yet to illustrate how this process on the Prairies affected the Metis in other parts of Canada, including Ontario. It is evident that the difference in federal policy for the Metis had an impact on the social and economic circumstances of Ontario Metis who became less visible in the twentieth century than their counterparts on the Prairies. The Metis of Ontario also appear, as a result, to have had only a local and isolated impact on federal government policy, and, at least until they were recognized by the Constitution Act of 1982 as "aboriginal people," they had only a minimal effect on non-Indians. If they lived on or adjacent to an Indian reserve they were often considered to be outsiders by Indians. Historically, they appear to be not just people between two cultures but also people who were perceived to be lost. Additional research -- which is beyond the scope of this reconnaissance -- is needed to illustrate the implications of the different application of federal government Metis policy in Ontario, on the Prairies, and elsewhere in Canada.

Alexander Morris, the federal government's chief negotiator in the Treaty Three negotiations of 1873, emphasized the "hearty co-operation and efficient aid" of the Metis people of Manitoba

who were involved in those negotiations.⁷ However, a closer examination of the historical facts indicates that the Metis played a far more important role than Morris' description would indicate. They served as reporters, interpreters and witnesses, perhaps even as mediators and negotiators, in determining their own rights and interests in the area covered by Treaty Three.⁸ As subsequently indicated in the "half-breed" adhesion to Treaty Three, the role of the Metis in these negotiations was not an isolated incident, but rather evidence of a longstanding involvement that had its basis in the late eighteenth century, if not before. Moreover, that involvement did not end with Treaty Three, but remained continuous, influential and ubiquitous throughout all of Ontario. Indeed, an appreciation of the role played by the Metis is fundamental to an understanding of the treaty process and to the development of Native policy in Ontario, and across Canada.

Prior to 1850, when the Robinson Treaties were signed, it appears that Metis people in Ontario were seen as distinct local groups, or as families, or as individuals who were located at or near the centres of the fur trade. They were primarily associated with the activities of that trade and with centres such as present-day Moose Factory, Penetanguishene, Thunder Bay, Fort Frances and Kenora. Although it is impossible to determine exact numbers, there would have been at least several hundred people, perhaps a few thousand, who saw themselves as Metis. Some of them, such as those at Fort William and Sault Ste. Marie, appear to have been identified as "aboriginal people" since they had adopted, usually but not always, from their Indian mothers aspects of the Indian people's culture.⁹ They were perceived in nineteenth-century Ontario either as "half-breeds" (Metis) or as "British Indians."¹⁰ They were prominent individuals acting as Indian Chiefs or Headmen or as officials of the Indian Department, and in various capacities as facilitators at treaty negotiations.¹¹ Only some of the Metis, however, were included as beneficiaries of Indian treaties in Ontario.

THE METIS AND "PRESENT-GIVING"

It is significant that the Robinson Treaties of 1850 did not signal the first or only recognition of the Metis by the Government of the Province of Canada West. Indicative are the circumstances surrounding an 1840 petition addressed to the Governor-General of Canada. In this petition, Metis residing at the town of Penetanguishene, who were originally from Drummond Island and Sault Ste. Marie, compared their own economic and political circumstances with those of other Metis in the Province of Canada. They wished to be included with Indian people and other "half-breeds" in the annual present-day giving. Prior to 1858 presents had been distributed by the British government to the Indian people either as a reward for their services in time of war or as a gift to maintain their allegiance to the Crown. By the 1840s, presents were also being given for humanitarian reasons. This document, quoted below, gives the Metis view of the present-giving issue:

That your Petitioners, have always proved themselves, to be good and loyal Subjects, and a number of them when Call'd upon, have served in the Militia, and will always be ready at any Call when their services may again be required.

That your Petitioners are generally speaking, in poor circumstances, and that they do not share in any advantage in presents issued to the Indians as a member of the half breeds, from the Sault St. Marie and other places on the shores of Lake Huron have done for the last two years.

Therefore your Petitioners most humbly beg your Excellency will take their case under your Excellency's consideration and that your Excellency would be pleased to allow them to have the same advantage that persons of the same class living at the Sault St. Marie and other places on the shores of Lake Huron, desire from the issue of Indian presents to them and their families. 12

The government's response to the petition is not extant. However, the views of Samuel Peters Jarvis, then Chief Superintendent of Indian Affairs in Toronto, are noteworthy. Jarvis reported that the petitioners were in error in their belief that the half-breeds to whom they referred had received presents for the last two years.¹³ He acknowledged that he had "reason however to think that some few of them did, for it is extremely difficult to decide in many cases who are or who are not of the Caste."¹⁴ Jarvis stated that the decision to "withhold the

Presents from this Class of Indians" had been made verbally some time between 1818 and 1826, but that he had no written record of it in the Indian office.¹⁵ It was his view that the purpose of government at that time was to encourage the "civilization" of Native people: "The design was clearly to discourage the intermarriage of French Canadians or other white men with the opinion of many persons that such intermarriage had a demoralizing effect on the Indian Character and retarded their Civilization."¹⁶ However, based on his own personal observation and visits with Natives from Penetanguishene along the northern shore of Lake Huron to Sault Ste. Marie, Jarvis did not agree with that view: "... I am induced to think that most, if not all the Indian women married to white men, and particularly those married to French Canadians have adopted in a great measure the social manners and habits of their husbands, and strictly apply themselves to domestic and household duties."¹⁷ Based on these reasons, which were remarkably similar to those of his contemporary, Herman Merivale, Jarvis suggested that "... the sooner this disability [not receiving presents] is removed from the half breeds the better, for I am persuaded that such an opinion ["the intermarriage of Indian women with white men has the effect of checking or retarding their civilization"] cannot be sustained by facts."¹⁸ Thus, although the government made a general distinction between Metis and Indians, some Metis were included in the annual present-giving while others were not. Jarvis, however, believed that all Metis should be included in the present-giving and he rejected the arguments that were often advanced to the contrary. Nevertheless he made no attempt to relate "present-giving" to aboriginal or treaty rights. They were clearly separate considerations of government up to the mid-nineteenth century.

THE METIS AND THE ROBINSON TREATIES OF 1850

A clearer, but not a clear, direction on whether the Metis should be included with Indians as "aboriginal people" came in 1850 during the negotiation of the Robinson Treaties of which some Metis were beneficiaries. A year earlier the "half-breeds"

had figured prominently in the Mica Bay resistance that had precipitated the treaty negotiations. William Benjamin Robinson (1797-1873), the negotiator for the Government of the Province of Canada, reported after the treaties had been signed that there were eighty-four "half-breeds" in the Robinson Superior Treaty area, and two hundred "half-breeds" in the Robinson Huron Treaty area.¹⁹ They had presented their claims to become beneficiaries of those treaties either as individuals who had rights based on their prior claim to land or as individuals who were part of, or affiliated through familial connections, with certain Indian bands. These included those of Garden River, Mississagi River, Thessalon River, Dokis, Michipicoten, Fort William and others.

At the Treaty negotiations, Robinson noted the following in his diary entry of Monday, 9 September 1850:

Went over to the Council early with [Robinson Huron] treaty prepared for signature. Explained it to all the Chiefs present, who were satisfied & ready to sign. Shinguacouse [who was himself a progeny of an Indian woman and a British officer] & Nebenaigoching came later in the day, objected to sign unless I pledged the Govt to give the halfbreeds mentioned in the list handed to me free grant of 100 acres of land. I confirmed certain old residents in the free & full possession of their lands on which they now reside. I told them I had nothing to do with anybody but the Indians & could not make promise of land. The Chiefs had kept a large reserve & might if they pleased give their locations. Govt itself had no power to give free grants. I then had the treaty again read over aloud to them all & explained, when they all signed it, Shinguacouse & Nebenaigoching signing first. 20

In his official report on the negotiations, Robinson stated that the Indian spokesmen "insisted that [he] insert in the treaty a condition securing to some sixty half-breeds a free grant of one hundred acres of land each."²¹ He also stated that "they [the Indian spokesmen] already had [his] answer as to a larger annuity, and that [he] had no power to give them free grants of land."²² In the end, the Metis in question were included separately as "half-breeds" on the annuity paylists for the Indian Bands in the Robinson Huron and Superior Treaty areas. This was true, for example, of the Fort William and Michipicoten annuity paylists for 1852.²³ In this way, some Metis became beneficiaries of these treaties. However, there were no lands identified as Metis reserves or any other areas of land that were specifi-

cally identified and set aside for Metis groups or families or individuals in those treaty areas. Ultimately, of course, these demands by the Metis for land grants would be echoed in the Red River Colony in the 1860s and 1870s. It may also be that the same Metis later evolved political connections with those at Red River and beyond.

THE METIS AND THE EARLY INDIAN ACTS

Douglas Leighton, a Canadian historian, has summarized the circumstances of the Metis in the mid-nineteenth century in this way:

The Metis population of the province [of Ontario] fell into legal limbo between the status of citizen and that of Indian. Unrecognized in legislation, they were sometimes included in treaty discussions. One of the concerns of the Indians signing the Robinson Huron Treaty in 1850, for example, was the fate of their half-breed relatives. W.B. Robinson felt that if band leaders wanted to include such people on their lists, they should be free to do so. His position in a sense reflected the legal and social reality of the Metis: they had to choose whether they would be Indian or White. Once the choice was made, they in many ways ceased to be people "in between." Their dilemma was not an enviable one: either choice meant giving up something of their unique inheritance. Politically, they remained extremely vulnerable, being utterly dependent on the good will of band leaders for their positions on band lists. Legally, they had no distinct existence. 24

Notwithstanding this legal and political "limbo," the Metis appear to have been included in the early Indian Acts. The 1850 Indian Protection Act, for example, was addressed to "Indians or any person intermarried with any Indian," and although it did not specifically define who was an "Indian,"²⁵ it did recognize as "aboriginal people" those individuals and their offspring who had "intermarried" with the Indian people.²⁶ Likewise, the 1857 Civilization of Indian Tribes Act of the Province of Canada, established the following definition of Indian:

... the term 'Indian' means only Indians or persons of Indian blood or intermarried with Indians, who shall be acknowledged as members of Indian Tribes or Bands residing upon [unceded Indian or Indian Reserve] lands ... 27

This definition, whatever the intention of its framers, had the effect of defining more precisely who was legally an Indian, and that definition implicitly conceded that a Metis person could be an Indian.

Almost twenty years later the Indian Act (1876) gave the following definition of Indian:

First. Any male person of Indian blood reputed to belong to a particular band; Secondly. Any child of such person; Thirdly. Any woman who is or was lawfully married to such person. 28

That Act also had the following statement "As to half-breeds":

Provided also that no half-breed in Manitoba who has shared in the distribution of half-breed lands shall be accounted an Indian: and that no half-breed head of a family (except the widow of an Indian, or a half-breed who has already been admitted into a treaty), shall, unless under very special circumstances, to be determined by the Superintendent-General or his agent, be accounted an Indian, or entitled to be admitted into any Indian treaty. 29

Taken together, both of the above definitions acknowledged that Metis could be, and indeed that some already had been, admitted to treaty as "Indians."

At the same time Metis people in Ontario do not appear to have identified themselves culturally or politically as a distinct "nation." On the Prairies the Metis did articulate a very real sense of nationhood, especially before 1885. The apparent lack of such an identity in Ontario, however, can be seen in the treaty-making process after 1850. Generally, the Metis of Ontario saw themselves, culturally and politically, as distinct and separate communities one from the other. None of the treaties that followed the Robinson Treaties prior to Confederation referred to, or included, any Metis individuals or families as culturally identifiable people distinct from others. Moreover, during that period, and continuing after 1867, the Metis in Ontario, apart from any familial relations,³⁰ appear to have been persons who were also distinct and separate from the Metis people at Red River.³¹

THE METIS AND TREATY THREE

Federal government recognition of the Metis in what now is northwestern Ontario (but which between 1867 and 1889 was part of the Northwest Territories) was a direct response to the so-called Red River Resistance of 1869-70. Cognizant of the familial and political connections between the Metis of Manitoba and those in the Northwest Territories, as well as fearing that the Saulteaux Ojibwa would join their Metis brethren in the

Resistance, the federal government took various measures to mitigate these circumstances. Robert J.N. Pither, of the Hudson's Bay Company and later one of the Indian Commissioners in the Treaty Three negotiations, was sent by Sir John A. Macdonald to placate the Natives in the vicinity of Lake of the Woods and Rainy River during the events of 1869-70. After 1870, and the passage of the Manitoba Act of that year, the federal government attempted to deal with the land claims of the Indian and Metis people either by legislation or by treaty. At the time, the Ontario and federal governments were in a dispute over the northwestern boundary between Ontario and what would become Manitoba. The federal government tried, with some considerable success, to include Metis in present-giving, the treaty process, and at least in one instance, in a free grant of land to one Metis person. Although there is no evidence that money or land scrip was granted to Metis in Ontario, as was the case in the Prairies, federal Native policy in northwestern Ontario between 1867 and 1885 did entail a recognition of both Metis and Indian claims, as well as a need to satisfy those claims.

About six months after the first attempt in 1871 to negotiate what eventually became Treaty Three, Simon James Dawson, civil engineer and builder of the Dawson Route, paid compensation for outstanding land claims. Specifically, he paid three dollars per person to nine Metis families (forty-nine individuals) located at Fort Frances and along the Rainy River. He did so to satisfy their claims to lands that were needed for the right of way for the Dawson Road. The nine heads of family, who were listed separately from those Indians in the area who received similar compensation, included Michel Morrissette, Jean Baptiste Jourdain, John Jourdain, Joseph Jourdain, Simon Jourdain, Louis Jourdain, Francois Mainville, John Linklater and Xavier Ritchot.³²

The Metis at Fort Frances participated in the Treaty Three negotiations in October 1873 through their Indian spokesman,³³ Chief Mawedopeness of the Long Sault Indian Band No. 1. During the negotiations, Alexander Morris, who had known prior to the final negotiations that fifteen families of half-breeds

at Fort Frances had wanted to be included in the treaty, sounded a theme that would become increasingly familiar:

I am sent here to treat with the Indians. In Red River, where I came from, and where there is a great body of half-breeds, they must be either white or Indian. If Indians, they get treaty money, if the half-breeds call themselves white they get land. All I can do is to refer the matter to the Government at Ottawa, and to recommend what you wish to be granted. 34

In his Report on the Treaty Three negotiations, Morris wrote that the Indian spokesman had stated that

... there were some ten to twenty families of half-breeds who were recognized as Indians, and lived with them, and they [the Indian people] wished them [those half-breeds] included. I said the treaty was not for whites, but I would recommend that those families should be permitted the option of taking either status as Indians or whites, but that they could not take both. 35

Some Metis also became beneficiaries of Treaty Three as members of Indian Bands in the Treaty Three area. ³⁶ Two years later, on 12 September 1875, the half-breeds of Rainy River and Rainy Lake signed a "Memorandum of Agreement" at Fort Frances that was to provide them with the same treaty benefits as those enjoyed by the Indians, including two areas of land identified as "Reserves" for the "half-breeds at Rainy Lake." These areas comprised "160 acres for half-breeds to build and live on as a village," as well as 17 1/2 square miles (11,200 acres) of "Wild and farming land." ³⁷ The rationale for the land grant was contained in one of the preambles of the Memorandum of Agreement:

Whereas the half-breeds above described, by virtue of their Indian blood, claim a certain interest or title in the lands or territories in the vicinity of Rainy Lake or Rainy River, for the commutation or surrender of which claims they ask compensation from the Government. 38

In return for the grant, the Metis recipients would be required to surrender "fully and voluntarily" to the Crown "forever, any and all claim, right, title or interest which they, by virtue of their Indian blood, have or possess in the lands or territories above described..." ³⁹ However, the Memorandum of Agreement was never authorized by any act of executive authority of the federal government. Moreover, in administering Treaty Three, federal staff appear to have forgotten the substance of the Memorandum. By 1894 the people who lived on the "half-breed," reserves that had been set aside by the Agreement had become

identified by the federal government as "Treaty half-breeds,"⁴⁰ analogous to Indians. Indeed, the Metis lands eventually were identified by the Government of Canada on its "schedules" of Indian Reserves (in 1890, 1896,⁴¹ 1904 and 1914) as Rainy Lake Indian Reserves Nos. 16A and 16D.

The federal government, in consort with the Ontario Government, also dealt with at least one Metis, Michel Morrisseau, as an individual who had rights of occupancy in the Treaty Three area prior to the signing of that treaty. As previously noted, Morrisseau was identified on the 1871 Dawson Route payroll as a head of a half-breed family at Fort Frances. By occupation, he was a lighthouse keeper who had resided, at least since 1867, at the west end of the Rainy River near Lake of the Woods. His wife was a member of the Long Sault Indian Band No. 1 at Long Sault Indian Reserve No. 13, adjacent to the Rainy River. The land which Michel Morrisseau and his wife occupied and used for various purposes consisted of about 160 acres adjacent to the "lighthouse reserve," and was identified by the federal government as being located within the boundaries of the Paskonkin Indian Reserve No. 15. The basis for Morrisseau's claim to that 160 acres was his occupancy and use of the land as a Metis person prior to the signing of Treaty Three. However, his claim initially was not recognized by the federal or Ontario governments. The land identified as Paskonkin Indian Reserve No. 15 was surrendered by the Indian people on 16 March 1915 and confirmed by a federal Order-in-Council, dated 7 April 1915. The 160 acres in question were not included in the surrender, nor were they "confirmed" and transferred by Ontario to the federal government as part of Paskonkin Indian Reserve by virtue of Ontario legislation in 1915. However, although Morrisseau had died in 1907, the federal government subsequently recognized his claim to the 160 acres and issued a patent to his heirs for that land in 1918.⁴²

THE METIS AND LATE NINETEENTH CENTURY FEDERAL GOVERNMENT NATIVE POLICY

The federal government's views on the Metis in the treaty-making process cannot really be dignified by the term policy.

Sometimes the Metis were included in treaties; sometimes they were not. Clearly, federal representatives expressed various views on the issue. Yet what evolved in practice was a determined effort to exclude the Metis from the benefits of aboriginal status. Needless to say, such a development very much affected the participation of the Metis in the treaty-making process in the late nineteenth century.

Alexander Morris published his book on The Treaties of Canada with the Indians in 1880. In a separate section entitled "The Half-Breeds," Morris noted that there were three classes of half-breeds in the Northwest Territories (which, at that time, was considered by the federal government to include part of northern Ontario); and on each class, he offered a personal observation:

- 1) those who ... have their farms and homes ...
They will, of course, be recognized as possessors of the soil, and confirmed by the Government in their holdings, and will continue to make their living by farming and trading.
- 2) those who are entirely identified with the Indians living with them, and speaking their language ...
They have been recognized as Indians, and have passed into the bands among whom they reside.
- 3) those who do not farm, but live after the habits of the Indians, by the pursuit of the buffalo and the chase ...

I have seen no reason to change my [1876] views, as follows:

There is another class of the population in the North-West whose position I desire to bring under the notice of the Privy Council. I refer to the wandering half-breeds of the plains, who are chiefly of French descent and live the life of the Indians. There are a few who are identified with the Indians, but there is a large class of Metis who live by the hunt of the buffalo, and have no settled homes. I think that a census of the numbers of these should be procured, and while I would not be disposed to recommend their being brought under the treaties, I would suggest that land should be assigned to them, and that on their settling down, if after an examination into their circumstances it should be found necessary and expedient, some assistance should be given them to enable them to enter upon agricultural operations. 43

In all three cases, Morris argued that the Metis should receive land, but apart from those recognized as Indian, he expressed no support for admitting the Metis to treaty or for basing land

grants on aboriginal right. His observations in 1880 give an indication of how little he and other government officials knew about the Metis in Ontario and the Prairies. His division of the Metis into "classes" reflects mid-Victorian British categories of thought and says little, if anything, about the realities of Metis society in the nineteenth century. This lack of understanding by non-Natives was a primary constraint on the development of the federal government's policy for the Metis. For someone with Morris' extensive experience in treaty-making in general and with the Metis in particular, to know so little is not only striking but also revealing about the treatment of the Metis by non-Natives and by the federal government in 1885 and after.

Many of the views expressed in Ontario, especially by Edward Barnes Borron, an Ontario and later a federal civil servant, were becoming more restrictive and based on racial views. In a series of reports on the Robinson Treaties and on Treaty Three, Borron forcefully argued that the inclusion of the Metis as beneficiaries in those treaties had been an error on the part of the Government of the Province of Canada, and that the mistake had been perpetuated by the federal government after Confederation. His attitude was based on the understanding that

They [the Metis] had nothing to cede or surrender and no treaty with them was required. They suffered no loss and had consequently no claim whatever to compensation. The opening up and settlement of the country instead of being an injury and misfortune, has been a boon and blessing to them, providing as it has done, all the necessaries, conveniences and luxuries of life at greatly diminished prices. They had no moral claim whatever under such circumstances to compensation either in the form of annuities or otherwise. 44

Borron's views were indicative of a growing body of opinion in Ontario.

THE METIS AND THE INDIAN TREATIES IN THE TWENTIETH CENTURY

The federal government's restrictive "policy" toward the Metis was carried over into the present century. This was evident, for example, in the northern portions of Ontario. The Government of Ontario was not a signator to the adhesions to Treaty Five, signed in 1876, 1908, 1909 and 1910. Some Metis participated in those adhesions, but unlike the northwestern

part of Ontario, there were no Metis adhesions to Treaty Five in Ontario.⁴⁵ Likewise in northeastern Ontario a similar situation prevailed. After 1855, a number of Metis people moved into the Lake Temagami area in northeastern Ontario from other parts of Ontario and Quebec. Some of these Metis intermarried and became identified as members of the Temagami (Bear Island) Indian Band. With the expansion of Band membership came requests for land for an Indian Reserve. Between 1885 and 1940, however, that request was denied by the Ontario Government on the grounds, said government spokesmen, that that Indian Band had participated in the Robinson Huron Treaty of 1850.⁴⁶ Similarly, in 1973 the Temaugama Anishnabai, comprised of Metis and Non-Status Indians, as well as members of the Temagami Band, argued that they had an⁴⁷ outstanding claim because they had never signed that treaty. Somewhat different was the situation in the Treaty Nine area of Ontario. On the basis of one of the provisions in the Ontario legislation of 1891 and the subsequent Federal-Provincial (Ontario) Agreement of 1894, the Government of Ontario became a signator to that treaty in 1905-6. At the time, the Metis at Moose Factory and elsewhere in the area covered by the treaty did not become beneficiaries as an identifiable group. However, there were Metis who resided with, and who were regarded as, members of some Treaty Nine Indian Bands who became beneficiaries of that treaty.⁴⁸ This was true, for instance, of the Fort Albany, New Brunswick House and Moose Factory Indian Bands. By comparison, there was a Metis community at Moose Factory, and while some members of that community became beneficiaries of Treaty Nine, others did not. Moreover, some Metis at Moose Factory and elsewhere in Ontario, since they were under contract as servants of the Hudson's Bay Company, were not allowed by the terms of their standard contracts, to participate⁴⁹ in Treaty Nine as beneficiaries.

The issue of Metis participation in Treaty Nine did not end with the signing of the treaty in that area in 1905. A year later, five half-breed heads of families at Moose Factory who had been "refused treaty" on the grounds that they were not

living the "Indian mode of life" petitioned the Department of Indian Affairs. That petition, dated 1906, read as follows:

We the undersigned, half-breeds of Moose Factory beg to petition the Government of Ont. for some consideration, as we are told by His Majesty's Treaty Commissioners that no provision is at present made for us. We understand that scrip has been granted to the half-breeds of the North West Territory.

We have been born and brought up in the country, and are thus by our birth and training unfit to obtain a livelihood in the civilized world. Should the fur traders at any time not require our services we should be obliged to support ourselves by hunting,

We therefore humbly pray that you will reconsider your present arrangements and afford us some help. 50

In response, the Department wrote to the Ontario Government requesting land for these "twenty-five to thirty" people. A.J. Matheson, the Treasurer of Ontario, replied that

... this Government [of Ontario] would be prepared to allow these half-breeds, the number estimated not being over fifty [persons], 160 acres of land reserving minerals, to be selected in the District in which they at present reside, such selection not to interfere with Hudson's Bay [Company's] posts, or Indian Reserves, or lands to be required for railway purposes or for town sites, as it may be some time before the district in question is surveyed. 51

This approach was considered by Matheson to be a "reasonable consideration" for their claims. It is important to note, however, that there is no record of any action that was subsequently taken either on those claims or on the "reasonable consideration" proposed by Matheson.

Even when Metis were admitted to treaty as part of an Indian Band, it was not always with the on-going support of Band members, and this ultimately had the effect of more sharply defining Metis groups. In 1917, the Curve Lake Indian Band requested, in a letter from the Chief of that Band to the Department of Indian Affairs in Ottawa, that the Department remove Metis and non-status Indian people from Curve Lake Indian Reserve No.35A. Similarly, both during and immediately after the signing of the Williams Treaty of 1923, the same demand came from a different quarter. In a petition dated 20 November 1923 and addressed to the Honourable Charles Stewart, then Superintendent General of Indian Affairs, the Mississaugas of the Mud Lake Indian Band protested that certain Indian Band members who had signed the Williams Treaty, should not have done so:

The Mississaugas of Mud Lake signed the Treaty with the Commissioners R.S. Williams, R.V. Sinclair, Uriah Mcfadden on the 15th day of Nov. 1923. The Aboriginal Indian descendants and the rightful claimants for payment of the Mississaugas of Mud Lake for their hunting rights, are still protesting to the Government of Canada for the cancellation of the half breed signatures in our Treaty on the ground that the grandfather on the male side of the present generation of the Taylors who live in the Mud Lake Reserve was of white blood and not of Indian blood at all and under the Indian Act the Taylors do not belong to our tribe and are not entitled to a share of the moneys belonging to or held in trust for the Indians. 52

This petition was also supported by an affidavit from eighty-one year old Robert Mitchell, a local farmer who provided the following information on the Taylor family:

... that about 70 years ago I was well acquainted with John and William Taylor who lived in the vicinity of the County of Victoria. John Taylor has a son by an Indian woman, and this son was known as George Taylor. George Taylor married an Indian woman and had a family of sons namely: John, Charles, Thomas, William and James. John Taylor and William Taylor last named used to hunt in the Township of Verulam about the year 1856 when I knew them well. They and their families and other relatives were in that year living on Scugog Island, and they were afterwards removed to Mud Lake Reserve. All these members of the Taylor family and their descendants and other branches of the Taylor family have their descent through George Taylor first named whose father was of direct Scotch descent and not Indian at all. The father of George Taylor was as stated, John Taylor. The father of this John Taylor was William Taylor who came out from Scotland some years before his children John and William Taylor first above named were born. 53

In the case of both petitions, the Metis signators remained in treaty;⁵⁴ nevertheless, it is evident that, as half-breeds, they increasingly were perceived as members of a community set apart from Indian society. In this perversely ironic case, status Indians became the vehicle for the completion of the federal government's policy of excluding the Metis from their aboriginal and treaty rights. In still other cases, it seems that geographically defined Metis communities were the direct result of the treaty process. According to at least one Metis elder, this was true of the Metis community that developed at Burleigh Falls. As a consequence of becoming party to the Williams Treaty of 1923, a number of Metis were required to remove themselves from the Indian reserve where they had lived and relocate to the north at Burleigh Falls.⁵⁵

Treaties have continued to be the catalyst in the development of Metis communities in Ontario, either with or apart from

Indian communities. This was most noticeable as a result of the participation of individual Metis in the adhesions to Treaty Nine (1929-30).⁵⁶ Today, several of these Metis communities still exist in Ontario. Like Indian people, the Metis have an attachment to the land on which they have resided and have frequently been vocal in making their views known to governments. The following example illustrates the presence and effectiveness of some Metis in maintaining their community since the late nineteenth century.

In 1964, Scott Misener Steamships Ltd. began legal action to evict a group of people, primarily of Indian ancestry, who were living on one hundred acres of Section 30 of Fisher Township, about forty miles north of Sault Ste. Marie.⁵⁷ These people of Indian ancestry and their forefathers, many of whom were Metis, had lived at that location for well over a century. Their land had been included in Batchewana Indian Reserve No.15 which was set apart by the Robinson Huron Treaty of 1850. It was surrendered for sale by the Batchewana and Goulais Bay Indian Bands in the Pennefather Treaty (Surrender No.91[a]) of 1859. John A. Cameron, a non-Native, purchased this land from the Crown (Canada) in 1874 and it was subsequently acquired by Scott Misener Steamships Ltd. After lengthy negotiations with Scott Misener Steamships, an exchange of land was arranged whereby the steamship company transferred to the Province of Ontario the land on which the settlement was located. In return, the company received from the Province of Ontario other land in the Township of Herrick.⁵⁸

The residents of the settlement came together to form the Batchewana Corporation, a non-profit organization through which they hoped to acquire the land in question. On 16 May 1974, that land was transferred by the Government of Ontario to the Corporation at no cost. It was surveyed and subdivided to allow the residents the opportunity to acquire full title to the land that they had been occupying. These negotiations and arrangements did not involve the Batchewana Indian Band, and the hundred acres embraced by the transfer is not today Indian reserve land. Of the approximately fifty families residing at

this location, three or four may be registered Indians. These families legally formed the Batchewana Corporation to facilitate the transfer of that land and to run their local community affairs. They also obtained grants from the Ontario Government to purchase equipment for community purposes. The Ministry of Natural Resources has had no land or other negotiations with the Batchewana Corporation since 1974.⁵⁹ This example illustrates that, even when the Metis people became beneficiaries of treaties and may have surrendered whatever interest they had in the Indian reserve land on which they resided, they persisted in the way of life and occupancy of the land on which they were situated.

CONCLUSION

The Metis of Ontario have been actively involved in the treaty-making process in Ontario since at least the late eighteenth century. They have acted as facilitators and as participants in that process. In both roles they have been motivated, as the federal government and the Indian representatives have been, primarily by self-interest.

By the 1840s the Metis of Ontario living as they were in distinct communities, along waterways and near the fur trade routes in all parts of the province, had presented to government some of their claims relating to aboriginal rights to presents, land and resources. Government officials recognized those claims and largely dealt with them through the treaty-making process, essentially by obtaining their adherence to Indian treaties. The best example of this process is the inclusion of the Metis in the Robinson Huron and Superior Treaties of 1850. Before the "numbered" treaties on the Prairies and in northwestern Ontario in the 1870s, a means had developed by which the Metis were included in the treaty-making process on the basis that they were "Indians," and thus had aboriginal claims. This approach was confirmed and enlarged by the federal government after the 1869-70 Resistance in the Red River colony, particularly in its dealings with the Metis in Manitoba. Thus Metis claims in Manitoba were recognized by federal government legislation. Influenced, at least in part, by this recognition

of the Metis, and also by the treaty-making process in Ontario before 1867, the first formal "half-breed" adhesion was signed in 1875 by the federal government and the Metis community at Fort Frances, as an adhesion to Treaty Three. Since that time the Metis have continued to assert their claims and have participated in adhesions to Treaties Five and Nine and the Williams Treaty and are currently involved in constitutional discussions on aboriginal and treaty rights in the new Canadian Constitution (1982).

The federal government's Native policy was based on nineteenth-century racial views and labels. In Ontario that policy effectively operated through federal government legislation and the negotiation and administration of the treaties as a policy of exclusion. That policy, implicitly and more thoroughly developed after the Resistance of 1885 in the Canadian west, also had an impact in Ontario. Before 1885 the Metis were included in treaty negotiations and, as individuals or communities, became beneficiaries of treaties. After 1885 the Metis were seen, at least in Ontario, as "Indians" in federal government legislation and in the administration of treaties, and they were often excluded either as individuals or as communities in treaties negotiated and signed in the twentieth century.

Notwithstanding the nineteenth-century racial labels that may have been applied to the Metis of Ontario, one cannot stress enough that the Metis had ubiquitous familial connections; that they were politically aware of the implications of their actions; and that by the twentieth century they had developed into, or as part of, communities within or near Indian reserves or communities. Thus, it should not be surprising to find "Metis" now in the Constitution Act, 1982 (Section 35(1)), along with "Indians" and "Inuit." The Metis of Ontario have had a complex, if neglected, history and they have had a significant role in the treaty-making process in Ontario since, at least, the late eighteenth century.

NOTES

¹ The opinions expressed in this paper are entirely those of the author and not necessarily those of the Ontario Ministry of Natural Resources or the Government of Ontario.

² The Metis are those individuals of mixed, largely Indian, British and French ancestry. The different historical circumstances of those Metis across Canada make it difficult, if not impossible, to define Metis in a general sense. The word commonly used to describe Metis in Ontario prior to the twentieth century was "half-breed" and the word did not, at that time, have a pejorative meaning.

³ Herman Merivale, Lectures on Colonization and Colonies (1861; rpt. New York: A.M. Kelley, 1967), p. 539.

⁴ David T. McNab, "Herman Merivale and the Native Question, 1837-61," Albion, 9, No. 4 (Winter 1977), 359-84.

⁵ Ibid., and David T. McNab, "Hearty Co-operation and Efficient Aid, The Metis and Treaty #3," Canadian Journal of Native Studies, 3, No. 1 (1983), 131-149.

⁶ C.P. Stacey, A Date with History: Memoirs of a Canadian Historian (Ottawa: Deneau, 1983), pp. 229-247. On the definitions of "Metis" see John E. Foster, "The Metis: The People and the Term," Prairie Forum, 3, No. 1, (Spring, 1978), 79-91. Thomas Flanagan has attempted to understand Louis Riel and the 1885 "Rebellion" in his Louis "David" Riel, Prophet of the New World (Toronto: University of Toronto Press, 1979), and in Riel and the Rebellion: 1885 Reconsidered (Saskatoon: Western Prairie Producers, 1983). In doing so he has provoked considerable scholarly and other debate.

⁷ McNab, "Hearty Co-operation," p. 146.

⁸ Ibid., pp. 131-149.

⁹ For the historical background to some of those families and individuals see Sylvia Van Kirk, Many Tender Ties: Women in Fur Trade Society (Winnipeg: Watson and Dwyer, 1980); and Jennifer S.H. Brown, Strangers in Blood, Fur Trade Company Families in Indian Country (Vancouver: University of British Columbia Press, 1980); Carol M. Judd, "Mixed Bands of Many Nations, 1821-70," in Old Trails and New Directions, eds. Judd and Arthur J. Ray (Toronto: University of Toronto Press, 1980), pp. 127-146; and the biographies of Metis individuals in the Dictionary of Canadian Biography, Vols. 2, 3, 4, 5, 8, 9, 10 and II. Only some contributors have identified these individuals as Metis.

¹⁰ McNab, "Hearty Co-operation," pp. 136-137.

¹¹ Personal communication, Dr. Edward S. Rogers, Curator, Department of Ethnology, Royal Ontario Museum, 7 February 1984.

¹² Public Archives of Canada (PAC) Record Group (R.G.) 10, Indian Affairs Records, Vol. 72, File 67087-67111. The list of petitioners includes: Joseph St. Onge, Antoine St. Onge, Toussaint St. Onge, Charles Langlade Sr., Charles Langlade Jr., Baptist Frechette, Louis Labatte, Michel Labbate, Louis Payette,

J.B. Lalonde, Alexis Beausoleil, Charles Vasseur, Andre Vasseur, Pierre Genoux, Ignace Payette, Joseph Trudeau, Thomas Toms, J.B. Trudeau, Joseph Lavallo, Joseph Thibeau, Pierre Blette, Antoine Trudeau.

13
Ibid.

14
Ibid.

15
Ibid.

16
Ibid.

17
Ibid.

18
Ibid.

19
Alexander Morris, The Treaties of Canada with the Indians (Toronto: Coles Canadiana Reprint, 1971), pp. 16-17.

20
Provincial Archives of Ontario (PAO), J.C. Robinson Papers, 1850 "Diary (or Journal) of Wm. B. Robinson on a visit to the Indians to make a treaty 1850."

21
Morris, p. 18.

22
Ibid.

23
PAC, RG10, Vol. 9497. Annuity Paylists of the Fort William Indian Band, the Pic Indian Band, and the Long Lac Indian Band, dated 1852-3, pp. 25-38.

24
Ontario Ministry of Citizenship and Culture, "A Profile of Native People in Ontario," January 1983, p. 16.

25
13 and 14 Victoria (1850) Cap.74 (Province of Canada). An Act for the Protection of the Indians in Upper Canada from Imposition, and the Property occupied or enjoyed by them from Trespass and Injury.

26
Ibid.

27
20 Victoria (1857) Cap.26 (Province of Canada). An Act to Encourage the Gradual Civilization of the Indian Tribes in this Province, and to Amend the Laws Respecting Indians.

28
39 Victoria (1876) Cap.18 (Canada). An Act to Amend and Consolidate the Laws Respecting Indians.

29
Ibid.

30
For example, the Nolin family at the Red River Settlement also had relatives located at Sault Ste. Marie, subsequently members of the Batchewana Bay and Garden River Indian Bands. See Donald Chaput, "The 'Misses Nolin' of Red River," The Beaver, (Winter, 1975), pp. 14-17.

31

For one aspect of the historical background on the development of the Metis "nation" see David T. McNab, "The Colonial Office and the Prairies in the Mid-Nineteenth Century," Prairie Forum, 3, No. 1 (1978), 21-38.

32

PAC, RG10, Vol. 1675 "Dawson Route Paylists," dated October 17, 1871." I am indebted to David Hume of the Public Archives of Canada for drawing my attention to these items.

33

McNab, "Hearty Co-Operation," pp. 1-14.

34

Morris, p. 69.

35

PAC, RG10, Vol. 1918, File 2790-B, Alexander Morris to the Honourable Alexander Campbell, Minister of the Interior, October 14, 1873. This document was subsequently reprinted in Morris, pp. 47-52.

36

Ministry of Natural Resources (MNR), Office of Indian Resource Policy (OIRP), File on the Rat Portage Indian Land Claim. For example, "Macnabb," also identified as Chief Pagonakieshick, is listed as Chief and as one of the members of the Rat Portage and Dalles Indian Bands.

37

PAC, RG10, Vol. 1846 Consecutive Nos. 131 and 132, "Memorandum of Agreement" of 12 September 1875.

38

Ibid.

39

Ibid.

40

MNR Indian Lands File #184314, "Couchiching Indian Reserve #16A," D.C. Scott, Acting Deputy Superintendent General of Indian Affairs to A.S. Hardy, Ontario Commissioner of Crown Lands, 17 September 1894.

41

MNR Indian Lands File #186214, Vols. 1 and 2. Treaty #3. See also David T. McNab, "The Administration of Treaty #3: The Location of the Boundaries of Treaty #3 Indian Reserves in Ontario, 1873-1915" in As Long as the Sun Shines and the Water Flows: A Reader in Canadian Native Studies, ed. I. Getty and A.S. Lussier (Vancouver, University of British Columbia Press, 1983), pp. 145-157. MNR Indian Lands File #184314, "Couchiching Indian Reserve #16A." Much later, on 8 June 1967, by federal Order-in-Council OC/PC #1967-1145, the lands in Rainy Lake Indian Reserves #16A and #16D became part of the present Couchiching Indian Reserve #16A.

42

MNR Indian Land File, #186214, "Treaty #3," Vols. 1 and 2; see also MNR (OIRP) File on the Rainy River Indian Land Claim.

43

Morris, pp. 293-295.

44

PAO, Irving Papers, MU1468, 30/36/06(1); 31/37/10; MU1465, 27/32/08.

45

PAC, RG10, Vol. 1847 Consecutive No. 149.

46

See the "Reasons for Judgment", dated 11 December 1984, by Mr. Justice Donald Steele in the Temagami Indian Land Claim (Bear Island Cautian) that has been before the Supreme Court of Ontario.

47

Ibid.

48

MNR Indian Lands File #186220, "Treaty #9"; MNR (OIRP) Files on the New Brunswick House Indian Land Claim and on Moose Factory Indian Reserve #68.

49

See the following articles by John S. Long on the Metis community at Moose Factory: "Archdeacon Thomas Vincent of Moosonee and the Handicap of 'Metis' Racial Status," Canadian Journal of Native Studies, 3, No. 1 (1983), 96-116; and "Treaty 9 and Fur Trade Company Families: Northeastern Ontario's Half-breeds, Indians, Petitioners and Metis," in The New Peoples: Being and Becoming Metis in North America, ed. J. Peterson and J.S.H. Brown (Winnipeg: University of Manitoba Press, 1985), pp. 137-162.

50

MNR Indian Lands File #186220, "Treaty #9." This petition was signed "Andrew Morrison, George McLeod, William McLeod, William Moore and William Archabald." Under their names was the notation that they "represent[ed] various absentees at Charlton and on HBC Vessels."

51

Ibid.

52

PAC, RG10, Vol. 2330, File 67,071-73, Part 1.

53

Ibid.

54

Ibid.

55

MNR Indian Lands File #184361, "Curve Lake Indian Reserve #35A"; and #19388, Vols. 1 and 2 "The Williams Treaty." Indian Commission of Ontario Files, Oral History on the Williams Treaty of 1923, in 1979-80.

56

MNR Indian Lands File #186220, "Treaty #9," and #11479, "Indian Treaty #9 Adhesions."

57

MNR (OIRP) File on the "Batchewana Bay Band."

58

Ibid.

59

Ibid.

