

# HEINONLINE

Citation: 39 Alta. L. Rev. 1052 2001-2002



Content downloaded/printed from  
HeinOnline (<http://heinonline.org>)  
Thu Jul 16 15:32:25 2015

-- Your use of this HeinOnline PDF indicates your acceptance  
of HeinOnline's Terms and Conditions of the license  
agreement available at <http://heinonline.org/HOL/License>

-- The search text of this PDF is generated from  
uncorrected OCR text.

-- To obtain permission to use this article beyond the scope  
of your HeinOnline license, please use:

[https://www.copyright.com/ccc/basicSearch.do?  
&operation=go&searchType=0  
&lastSearch=simple&all=on&titleOrStdNo=0002-4821](https://www.copyright.com/ccc/basicSearch.do?&operation=go&searchType=0&lastSearch=simple&all=on&titleOrStdNo=0002-4821)

***Bounty and Benevolence: A History of Saskatchewan Treaties*** by Arthur J. Ray, Jim Miller, and Frank J. Tough (Montreal & Kingston: McGill-Queen's University Press, 2000)

This book is a welcome addition to the study of Indian treaties in Canada and represents the first book-length synoptic treatment of the western Canadian treaties from the Selkirk Treaty of 1817 to Treaty 10 in 1906. Commissioned as a report for the Office of the Treaty Commissioner for Saskatchewan, this monograph examines all treaties that had some bearing on Saskatchewan treaties and consequently deals with most of the numbered treaties in western Canada (Treaties 1, 2, 3, 4, 5, 6, 8, 10). The authors, all recognized experts in the field, synthesize the last twenty years of scholarship in treaty research and place the whole in the context of Aboriginal/Hudson's Bay Company relations before 1870 and the Rupert's Land transfer of 1869-70. This context, and the innovations introduced by the western First Nations, the authors imply, make these agreements a new departure in treaty-making in Canada. While there is nothing particularly new here regarding any particular treaty, the book does present a broad overview of the treaty relationship and the disputes that have arisen between First Nations and government officials regarding the interpretation and implementation of these treaties.

The title of this book is taken from the numerous references to the "bounty and benevolence" of the Crown in the text of the numbered treaties of western Canada. The authors use this phrase both to argue that these words represented a persuasive expression of the treaty relationship whereby "Indian livelihood was to be secured or enhanced by a treaty relationship"<sup>1</sup> and as an ironic critique of an older scholarship that argued the numbered treaties were the work of a beneficent government.<sup>2</sup> The scholarship that the authors take most umbrage at, however, is more than sixty years old. The writings of Alexander Morris, Duncan Campbell Scott, and George Stanley<sup>3</sup> were set within the context of the British and Canadian policies of "civilizing" the Indians and argued that the western treaties were the work of a high-minded and generous government. These views have been in dispute for at least twenty years, and the new orthodoxy has almost completely reversed this early positive assessment. According to this newer view the government was neither wise nor beneficent, and it was the Natives who played the more active role in initiating and shaping the western treaties. Other aspects of this new synthesis include the argument that treaties need to be seen in light of older fur-trade alliances — that Natives negotiated treaties in the context of long established fur-trade customs that they incorporated into treaties, and finally, that Indian motivations for accepting surrender of aboriginal title can be partially understood as a desire by some

---

<sup>1</sup> A.J. Ray, J. Miller & F.J. Tough, *Bounty and Benevolence: A History of Saskatchewan Treaties* (Montreal & Kingston: McGill-Queen's University Press, 2000) at 214 [hereinafter *Bounty and Benevolence*].

<sup>2</sup> *Ibid.* at xvii.

<sup>3</sup> A. Morris, *The Treaties of Canada with the Indian of Manitoba and the North-West Territories, Including the Negotiations on Which They were Based, and Other Information Relating Thereto* (Toronto: Belfords, Clarke & Co., 1880); D.C. Scott, "Indian Affairs, 1867-1912" in A. Shortt & A.G. Doughty, eds., *Canada and its Provinces* (Toronto: Glasgow Brook and Company, 1914); G.F.G. Stanley, *The Birth of Western Canada: A History of the Riel Rebellions* (London: Longmans, Green and Co., 1936).

Indians to secure an alternative or adjunct to their hunting, fishing, and trapping pursuits to diversify their economy and provide for basic security in a new age. These arguments are endorsed and expanded on by the authors of *Bounty and Benevolence*, making the book more of a capstone of the last twenty years of scholarship than any new interpretation or perspective.

This new orthodoxy, however, is in as much need of revision as the older scholarship was twenty years ago, and although it is a significant advance on the works of Scott and Stanley, it abandons some of the real strengths of the old scholarship, at least in the area of trying to understand the Canadian government's perspective of these treaties. The authors of *Bounty and Benevolence* devote a significant amount of space to explaining Native concerns and their understanding of treaty making, but one can read through the entire book without finding any detailed explanation of Canadian Indian policy and the government's perspective on treaty-making. While Indian treaties were a distinct legal instrument to extinguish aboriginal title to lands required for settlement and development, and to compensate First Nations for this surrender, these treaties were framed within a larger mandate of "civilizing" Indians. Misguided by today's standards, this civilization policy was front and centre in every one of the treaty negotiations in western Canada, and it was this aspect of negotiations that gave government negotiators their sense of high-minded principle. While it is no doubt true that First Nations played a more active role in shaping treaties than has been acknowledged in the past, it is also true, as John Taylor has noted,<sup>4</sup> that there was a precedent in old Canada for every significant item that came to be included in western treaties. Thus the case for western exceptionalism made by the authors *Bounty and Benevolence* falls somewhat short.

The argument for Native agency and prescience in negotiating these treaties, although beyond doubt, also tends to homogenize the Indian response. Not all Natives saw the treaties as the pathway to a new era, and there was considerable disagreement over tactics and strategy as Native leaders jockeyed for power. This story of inter-group conflict remains to be told. As well, the position of the Canadian government and its treaty commissioners was not as monolithic as this book suggests. Following the signing of Treaty 6 the Minister of the Interior castigated Alexander Morris for agreeing to terms (particularly the famine clause) as too "onerous" and "extremely objectionable." This censure of Morris and Morris's reply belie the claim made in the conclusion that the Crown maintained a consistent position throughout the treaty-making era.

The most contentious chapter in the book deals with the problems of treaty implementation. Having earlier gone to some lengths to explain Indian motivations for accepting "surrender" of Aboriginal title as the desire to secure their economic security in a new age, the authors here introduce the concepts of "autonomy" and "sovereignty" as a part of the treaty process. This argument might be more convincing had they dealt with these themes in the context of treaty negotiations where they would have added a degree of complexity and conflict to the Native position at treaty time.

---

<sup>4</sup> J.L. Taylor, "Canada's Northwest Indian Policy in the 1870s: Traditional Premises and Necessary Innovations" in R. Price, ed., *The Spirit of Alberta Indian Treaties* (Montreal: Institute for Research on Public Policy, 1979) 5.

These caveats aside, as the most comprehensive synthesis of the last twenty years of scholarship on the western treaties, *Bounty and Benevolence* should serve as a springboard to a new round of revisionism. In particular, the authors' contention that the documentary record permits a detailed discussion of the history of treaty-making, and yields "surprising insights into First Nations' views on critical issues,"<sup>5</sup> should send historians back to the archives.

Gerhard J. Ens  
Department of History  
and Classics  
University of Alberta

---

<sup>5</sup> *Bounty and Benevolence*, *supra* note 1 at xvii.