

**ASSOCIATION OF METIS AND NON-STATUS  
INDIANS OF SASKATCHEWAN**

**A DISCUSSION PAPER**

**SPECULATION IN HALF-BREED LAND AND SCRIP**

**DECEMBER 28, 1979**

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## I        Introduction

Since there was a process developed by the government to extinguish Metis land claims, through land grants, several questions are raised. What happened to these land grants? Why did the Metis not benefit from these grants? In the previous paper on "Scrip", we identified how the land grants were distributed and the fact that the Metis people did not benefit from them in any meaningful way. We also identified that they did not benefit because of specific government policies and the activities of speculators. In this paper we plan to examine various aspects of the speculative process in more detail. One object is to enable readers to better understand what was going on through this process. A second object is to demonstrate the fraud of the government's claim that it was extinguishing the land claims of the Metis and giving land grants for their benefit. A third object is to identify actual and possible areas of illegality in the speculative process.

We should note here that the process of extinguishing Indian Title dealt only with the Metis land claims. It did not deal with the other Metis national claims identified in the Manitoba list of rights such as language, education, self-determination, culture, etc.<sup>1</sup>

## II        Origins of Scrip and Land Speculation

Land speculation has probably been a fact of life ever since societies devised the concept of individual ownership of land. After all, land and its resources are the source of real and personal property. There can not be capital without land, there can be no currency without land, and as yet, no societies have evolved which are not dependent on a land base. Therefore, some people had perceived from an early time that land was a valuable commodity and that by speculating with land they owned they could make large amounts of money, or accumulate wealth in some form. With the wealth, of course, went power.

The art of speculation as a very exploitative process was most highly developed in the days of the westward push of settle-

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ment in the United States. Some method had to be bound to distribute land to new immigrants who had little, if any, capital. In the early days of settlement the distribution of money scrip was favoured. This, however, resulted in a small number of people acquiring large tracts of land cheaply, and holding this land until demand pushed up prices and resulted in larger profits for the speculators.<sup>2</sup> This discouraged settlers and tied up large tracts of unused land which retarded government attempts to orderly development in the central plains of the United States. The government, therefore, adopted a system of free homesteads. These were available to settlers for the payment of the registration fee. Title was granted if a settler lived on the land and made certain improvements to the land.

When the Canadian government was looking at a suitable method for opening the west, it decided to use the American model of homesteads and pre-emptions. Other lands were to be set aside for railway companies, the Hudson's Bay Company and for schools. In areas where land was considered to be difficult to settle because of isolation, lands were available to Colonization Companies under rules established by the government.<sup>3</sup> This left no land for speculative purposes. When the government decided to use free land grants and scrip to distribute land to the Metis and to other groups, the speculators having the benefit of the American experience, were quick to take advantage of the situation. The fact that speculation would result, was clearly recognized by Lieutenant Governor Archibald, when he urged the government to use free land grants to satisfy claims, rather than a system of vested land titles.<sup>4</sup> Indeed, the government by its own statements in Parliament in 1884, clearly recognized that if scrip were issued, speculation would result and the Metis would not benefit.<sup>5</sup> In spite of this, the government choose this method of distributing lands, and as we shall see, collaborated with and facilitated the speculators' activities in various ways. Therefore, speculation was the result of government policies identified in the previous paper, indeed we will argue that it was the necessary means by which the government would be able to achieve its policy ends.

### III      Speculation in Manitoba

The Manitoba Metis Land Commission is in the process of documenting land speculation in that province. Therefore, we will not attempt here to detail or analyze what was happening by way of speculation in that province. However, it is well to note several developments from Manitoba which were later expanded upon and affected what happened in the Northwest outside Manitoba where the speculators acquired their experience and developed the techniques which were to be later perfected in the Northwest.

According to the Manitoba Metis Land Commission, a great deal of outright fraud and collusion was practiced by speculators and government officials.<sup>6</sup> In many cases, the people entitled to land grants and/or scrip did not even know their titles or scrip had been granted. The practice of acquiring the right to land or scrip through the use of assignments was prevalent. Speculators had access to advance information as to when grants in a particular parish would be dealt with. They also had advance access to the parish lists which identified the potential recipients. Assignments using quit claim deeds were often obtained years before a land grant was made and were then dated after the fact. Powers of Attorney were also widely used. Speculators holding money scrip certificates were allowed to cash these in for scrip notes which could then be applied for land. Land was acquired for a fraction of its value or in some cases, by outright fraud. Land surveys were designed to break up existing land holding patterns. Settlers were allowed to settle on Metis reserves to break up the cohesiveness of the planned Metis communities.<sup>7</sup> A variety of other similar practices grew up which were expanded upon and improved upon by the speculators in the Northwest.

Other important similarities between speculation in Manitoba and the Northwest can also be identified. The first is that the major speculators were the same: the chartered and private banks, the trust companies, and certain other legal or financial institutions. Small-time speculators, of course, were generally local people and therefore were different, not only from

Manitoba to the Northwest, but also within the North West.<sup>8</sup> There were also several important speculators active in the Northwest who did not operate in Manitoba because they were not on the scene yet. The uses to which scrip were put in the two areas were also similar. These were identified in the previous discussion paper on "Scrip". They were to acquire land, to acquire leases, to acquire urban property, to acquire minerals and timber resources, and as a form of currency or to create money.

IV        Speculation in the Northwest

Chester Martin, in his work on the development of the Northwest, describes the Manhattan Island land purchase from the Indians for \$25.00, as a Sunday school picnic compared to what took place in the Northwest of Canada.<sup>9</sup> Indeed it was, when one compares the slick purchase of a few acre island in the Hudson River with the more than 5 million acres of Halfbreed land which passed into the hands of speculators. It is of note that the activities of speculators always began before any land grants or scrip were issued. This was true in Manitoba and it was true in the Northwest.

The speculators seemed to have a remarkable facility for learning about the plans of the government and where the scrip commissioners were going to be. This is of particular note in 1885 when there was little advance warning that there would be an issue of scrip. The government had steadfastly denied that the Metis had a land claim until March of 1885.<sup>10</sup> The commission itself was not established until the end of March 1885. The commissioners did not receive their instructions until late April of 1885. Their plans for the task did not begin until that time. In the months of May and June, 1885, they assembled their staff, set up their travel schedules, assembled supplies, issued public notices, and took care of all of the other details necessary for the commission to function. Sittings began in July 1885.<sup>11</sup>

In spite of the fact that the country was in a state of emergency because of the Northwest Rebellion, for a good portion

of that time, the speculators were still able to get the information they needed to get their act together in advance of the commission sittings. Some speculators were already active buying scrip entitlement before the commission began to sit. Other speculators travelled as part of the commission's entourage.<sup>12</sup>

In 1898, speculators in the Northwest were already aware that the rules for scrip eligibility would be altered to allow those born between July 16, 1870, and July 16, 1885, to be eligible for scrip. Some speculators were buying scrip entitlement or getting Powers of Attorney a year or more in advance.<sup>13</sup> In the case of scrip issued to the Metis who had gone to the United States from Canada, in 1903, one speculator in Winnipeg, R. C. McDonald, seemed to have an exclusive pipeline to this information. He had agents in Montana and the Dakota's as early as 1900 buying up scrip entitlement. It is a fact that the speculators were generally better informed about when scrip was to be issued, the rules governing scrip, and the uses to which scrip could be put, than were the Metis. They were also more adept at getting the government to change its policies or practices than were the Metis.

For example, Metis requests to receive scrip at a place other than where they lived were steadfastly refused. Their requests to the government to assist them to seek redress from speculators were also refused. The speculators on the other hand were successful in the following areas:

- a) getting the government to recognize Powers of Attorney;
- b) getting the government to accept scrip assignments;
- c) getting the government to change the eligibility date for scrip;
- d) having provisions made to allow Halfbreeds to withdraw from treaty and take scrip;<sup>14</sup>
- e) having the government post notices in land titles offices as to who had scrip for sale and the prices;
- f) getting the government to set up scrip accounts and act as bankers for the speculators; and

g) getting Orders-in-Council and rulings passed to allow scrip to be used for a variety of purposes other than for which it had been issued.<sup>15</sup>

The above are some of the best known and most obvious examples of how the government collaborated with the speculators. It is not a complete list. The government even turned a blank eye to illegal activities such as the following:

- a) the purchase and use of scrip by Chartered Banks;
- b) fraud in the location of scrip; and
- c) fraud in acquiring Powers of Attorney and scrip assignments.

In at least two cases the government ensured that activities of speculators which were illegal became legal by changing the applicable criminal laws.<sup>16</sup>

Speculation was widely known, frequently protested by Metis and other supporters and often debated in parliament.<sup>17</sup> The government acknowledged the practices of speculators but took no action to protect the Metis. It is contended that this was because the activities of speculators was essential to the achievement of government policy.

## V Who Were the Speculators?

The major speculators fall into a number of categories. These were in a general way identified in the paper on "Scrip". More specifically, the speculators included the following:

### A. Chartered Banks

- |                               |                        |
|-------------------------------|------------------------|
| - Imperial Bank of Canada     | - Bank of Montreal     |
| - Merchants Bank of Canada    | - Bank of Nova Scotia  |
| - Federal Bank of Canada      | - Bank of Hamilton     |
| - Dominion Bank of Canada     | - Ontario Bank         |
| - Canadian Bank of Commerce   | - Bank of Ottawa       |
| - Commercial Bank of Manitoba | - Union Bank of Canada |
| - Union Bank of Lower Canada  |                        |

The chartered banks accounted for approximately 60% of all scrip purchases. The biggest buyer among banks was the Imperial Bank of Canada. It purchased several thousand scrip notes, a large quantity of which it banked with the government. At the present time, we do not have a computer printout to show us how many scrip notes in total that bank purchased or their value.

B. Private Banks

The major private bank involved in scrip purchase was Alloway and Champion. They banked in excess of 400 scrip notes with the government. This is only a small portion of the scrip they acquired since they sold extensively over the counter and to land companies, the C.P.R. and other corporations.

C. Financial Agents

- Osler Hammond and Nanton
- Cowdry Brothers - Fort McLeod

Osler, Hammond and Nanton banked 210 scrip notes with the government. As yet we have no indication how else they may have used scrip.

D. Legal Firms

There were many lawyers purchasing scrip. The ones that we know who purchased large quantities include:

- A. McDonald, Winnipeg
- R. C. McDonald, Winnipeg
- Aikens, Culver, Hamilton - Winnipeg
- Asplin, Fort McLeod
- Campkin, Indian Head
- Hamilton and Jones, Regina
- Thomson and Brown, Moosomin
- Elliot and Chaffey, Winnipeg
- Lougheed and McCarthy, Calgary
- Haultain, McKenzie and McNeill, Fort McLeod
- McDougall and Secord, Edmonton

E. Politicians:

- Honorable A. J. Adamson
- Honorable J. O. Davis
- Honorable James McKay
- Honorable Mr. Lougheed

This is a very preliminary list as it includes only those who banked scrip with the government. We are certain that the computer printout will add substantially to this list.

F. Government Officials

- Deputy Minister of Agriculture, Lowe
- D. H. McDonald, Fort Qu'Appelle; first Indian Agent in the Northwest
- Sgt. Watson, N.W.M.P., Willowbunch
- Issac Cowey, a Dominion Land Agent

This, again, is a very preliminary list.

G. Merchants and Agents

The following merchants and agents dealt extensively in scrip. There were many other small-town merchants who bought and sold limited quantities.

- William Tait, Prince Albert
- Dixon Brothers, Maple Creek
- W. J. Pozer, Duck Lake
- C. Peterson, Prince Albert
- Wm. Moffit, Winnipeg
- Kelly Bros., Winnipeg
- Mitchell, Prince Albert

H. Land Companies

Land companies such as the Haslam Land Company and the Saskatchewan Valley Land Company made extensive use of scrip to acquire land for speculative purposes. They, however, appear only to have acquired small quantities on their own. They either bought from other speculators or received scrip from shareholders in payment for share capital. For example, the Imperial Bank of Canada

invested a minimum of 558 scrip notes to the value of approximately \$65,000 or worth 65,000 acres of land in the Saskatchewan Valley Land Company. It is not clear whether this was a direct loan to the company or scrip loaned to shareholders in the company.

The above is only a partial list of those who were involved in scrip and land speculation. These, however, were the major speculators, who records show, may have acquired as much as 75% of all scrip issued.<sup>18</sup>

#### VI        Relationships Between Government and Speculators

As has already been mentioned, some of the speculators were politicians and some were civil servants. The number of politicians and civil servants involved in speculation in Halfbreed scrip is probably much greater than we will be able to identify, since the information available does not always identify the avocation of the individuals involved in speculative activities. However, to the extent that such persons were involved in speculation, this is a clear violation of the trust responsibility of the government, and a conflict of interest for those persons so involved. They were all in a position to influence the decisions of the government directly for their own benefit. Even though it is not possible to prove that they did so, the fact that the government did not take action to curb such persons from speculative activities raises a great many questions about the scrip distribution process.

In other cases, Members of Parliament were shareholders in corporations which speculated in scrip or had at one time been business partners of politicians. For example, both the Honorable A. J. Adamson and the Honorable Mr. Turriff were shareholders in the Saskatchewan Valley Land Company which used large quantities of scrip for speculative purposes. It is of note also, that in 1908, when the company was established and bought 250,000 acres of land from the government for speculative purposes, Turriff was the Commissioner of Dominion Lands. He facilitated and helped organize this land scheme, was a shareholder in the scheme, and approved the

issue of patents to the company for 150,000 acres, after it had paid only 1/5 the purchase price, in violation of the Dominion Land Act requirements at the time. Indeed there has never been a time when real estate law has allowed the issue of patents and title to property to a buyer before it was fully paid for, unless the seller assumes a first mortgage claim on the real estate. That was not the practice of the government when disposing of Crown Lands. Mr. Turriff was also the brother-in-law of A. J. Adamson, and a few years later resigned his post to run and become an M.P. Adamson was, or at least had been, a business partner in several land companies with the Honorable Clifford Sifton, who was at the time of the Saskatchewan Valley Company deal, Minister of the Department of the Interior. Adamson and Sifton had been involved in land companies earlier which had speculated in scrip.<sup>20</sup> A prominent civil servant D. H. McDonald was also a shareholder in this company.

Another example of direct connections with government politicians is the case of Alloway and Champion. W. F. Alloway, in the early 1870's, was a business partner of the Honorable James McKay, a famous Manitoba Metis. He was first a member of the Manitoba legislature and later a member of parliament from Manitoba. Although their business partnership had been dissolved before he became an M.P., a close friendship continued.<sup>21</sup>

It is not possible to prove that other scrip speculators were political supporters and contributors to party funds. However, it is reasonable to assume that speculators such as Lougheed and Bennet, Alloway and Champion, and A. McDonald and some banks supported the Conservative Party. Other speculators like McDougall and Secord, R. C. McDonald, the Saskatchewan Valley Land Company and some banks supported the Liberal Party.

What is obvious is that the speculators had a great deal of influence with the government. For example, they were able to have the government advertise the availability of scrip from the speculators, free of charge, in all the land offices.<sup>22</sup> The government provided free scrip banking services for a select group of speculators in the Northwest. It should be noted that not

everyone had this privilege but most of the large speculators and the banks did.<sup>23</sup> Correspondence also indicates that the government drew changes in rulings or orders-in-council to the attention of the speculators, when this would facilitate their use of scrip.<sup>24</sup> The records also show that the speculators often challenged rulings or practices of the Department of the Interior, hinting legal action if changes were not made. These threats were based on the argument that the government practices were in violation of Civil Law.<sup>25</sup> For example, the government initially refused to recognize Powers of Attorney or Assignments. This was challenged as being in violation of Civil Law. This law gives a person the right to appoint someone to act as his agent. Also the law gives a person the right to dispose of or assign his/her own personal property to anyone he chooses. The enabling legislation or orders-in-council could have overcome this problem by making an aboriginal right, a special right in law, which was not personal but communal property, and therefore not assignable. It could also have passed laws clearly making an agent for an individual a trustee and therefore only able to administer the individual trust for his/her clear benefit.

Correspondence and other records clearly indicate, as well, that speculators were influential in determining the changes in the law to allow Halfbreeds to withdraw from treaty and for changes in the law to extend scrip to a whole new group of Halfbreeds, those born between July 15, 1870, and July 16, 1885. They also influenced the method chosen by the government to deal with the land claim. The clergy, some government agents, special consultants and other persons interested in the welfare of the Metis, all recommended against the use of scrip as the method of distributing land.<sup>26</sup> The speculators won out.

## VII      How did the Speculators Operate?

The speculators who were in the business, in a big way, did not generally do their own buying. They employed agents for this purpose. For example, in the case of Alloway and Champion, Charles Alloway, a brother of W. F. Alloway, although a junior

partner in the business, did not participate in the operations end of the business. He acted specifically as the buyer for the company. He often had his clothes especially made to enable him to conceal large quantities of cash on his person.<sup>27</sup>

The Dixon Brothers who operated out of Swift Current, had a contract with several agents to buy for them. The one full time agent they employed was William Tait.<sup>28</sup> There were other regular agents operating out of Prince Albert such as John Edward Sinclair. They may have acted for one or more companies.<sup>29</sup> Some people, like Fillmore, acted as agents for purchasing scrip in one specific situation.<sup>30</sup>

The scrip buyers always had advance information about the commissions and their schedules. They generally travelled with or close behind the commissioners. This fact is documented by both Fillmore<sup>31</sup> and Gregory. The buyers often formed buying syndicates to control prices paid and bought much of the scrip from Halfbreeds as soon as it was issued.<sup>32</sup> Extensive use was made of Assignments known as quit claim deeds. The practice used in the case of both land and money scrip was to have the seller sign a blank transfer form. This form would be completed and dated on receipt of the scrip notes in the case of money scrip, or after patents were issued in the case of land scrip.<sup>33</sup> Because the government refused to accept assignments during the early scrip issues, speculators made use of Powers of Attorney. Either the buyer himself, or the legal firm or other companies or individuals he represented would get people to sign Powers of Attorney.<sup>34</sup> In many cases people did not know what they were signing. It was not unusual for the buyer to hold both an Assignment and a Power of Attorney.

In many cases buyers sent agents into the field to buy people's entitlement to scrip before the commissioners arrived in the area. The agent would then apply for the scrip on behalf of the individuals he represented. Agents would inform people about the scrip issues and tell them they were entitled. They would offer to act as their agents. They would pay the person \$25.00 cash and have them sign papers (Powers of Attorney and often

Assignments as well). They always promised that once the scrip had been issued, they would return and pay them for the full value of the scrip. In most cases the individual Halfbreed never saw the agent again.<sup>35</sup> Generally, the people did not know how or could not afford to take legal action, even if they knew who the speculator or the buyer was. There were, however, several cases in which legal action was taken. Those cases involving R. C. McDonald and McDougall and Secord have been mentioned previously.

The scrip speculators always paid in cash. This made the identification of buyers difficult to establish. In the case of small town merchants, people often accepted goods, tools, implements, or animals. These would be the few cases where people received some benefit.

As has been mentioned previously, the speculators had no difficulty using money scrip which was made out to the bearer. Land scrip was more difficult to use but if necessary, speculators were not reluctant to enlist other natives and Dominion Land agents in the fraudulent location of the land scrip on land. Where people were accessible, the allottee's help was enlisted. In some cases they would even pay people's transportation for allottees to go to land offices where the speculator had selected land.

#### VIII      How Did the Speculators Use Scrip?

Scrip speculators seem to have had one basic motive for justifying their involvement in scrip, that was to make large profits. The way by which speculators did this, however, varied greatly. Some examples of scrip use are the following.

The Dixon Brothers were basically middlemen, or buyers and sellers. They might buy for 30¢ on the dollar and sell for 50 or 60¢ on the dollar. They did not acquire any land in their own name, using scrip. It is of course possible that they registered land under corporate or other individual names. This, however, seems unlikely since their personal records show they sold large quantities to persons acting as agents for buyers. In most of these cases, the buyers were not identified. Their records do,

however, indicate that the Dixon Brothers were in the ranching business and that they acquired pasture leases and paid the rental with scrip.

As has already been mentioned, the Saskatchewan Valley Land Company acquired 250,000 acres of Crown Land and the major part of the down payment was made with scrip. The Imperial Bank of Canada invested the largest block of scrip in this company, but they do not show as one of the initial shareholders. Other shareholders such as Adamson, Turriff and D. H. McDonald also bought shares in this company with scrip. Debates in parliament indicate that the average selling price for this land was \$8.00 an acre. The initial investment in the scrip was approximately 30¢ per acre.<sup>37</sup>

Alloway and Champion bought and sold scrip and, as well, acquired land. Their chief accountant, Lowe, indicated that substantial quantities of scrip were sold over the counter to settlers looking for a way of acquiring their pre-emptions cheaply. They also sold to land companies such as Haslam Land Company and to the Canadian Pacific Railway. The later used the scrip to acquire the land around townsites which happened to fall on even-numbered sections.<sup>38</sup> Speculators such as A. McDonald and R. C. McDonald used the scrip to acquire land in and around major urban centres such as Winnipeg. Dewdney used scrip to acquire land where the Regina townsite was located. He also had some land holdings in the Indian Head area, an alternate capital site.

Haslam Land Company, although not a major scrip speculator, did buy large quantities of scrip from banks and other speculators. With the scrip they assembled large blocks of homestead land in Southern Saskatchewan. The land archives in Saskatchewan indicate that this company acquired in excess of 70,000 acres of land in Saskatchewan in this way. This company also had other companies acting as agents for them who may have acquired additional quantities using scrip. Since this was an American company, we have not been able to get access to their records and therefore do not know if they had Canadian shareholders, or who these shareholders might have been.<sup>39</sup>

Scrip was also used to pay for timber leases and coal leases. For example, Theo. A. Burrows, brother-in-law of Sifton, received 549 square miles of timber leases in his name and another 478 square miles in the name of a company in which he was a major shareholder. In addition, Burrows and Sir Daniel McMillen, Lieutenant-Governor of Manitoba, who co-owned a company known as Imperial Pulp Company, received an additional 268,870 acres of timber leases in that company's name. Others who received timber leases included A. J. Adamson and T. O. Davis. Scrip was used to acquire coal leases by Galt Coal Company, Dominion Coal Company and others.<sup>40</sup>

One of the most interesting aspects of scrip speculation was the large quantities of scrip acquired by banks. Banks sold some of this over the counter and additional quantities to land companies.<sup>41</sup> Banks, however, did not use scrip to acquire any land in their corporate names, although they may have done so through trust companies, and loan and mortgage companies. We do know that some banks, particularly the Imperial Bank of Canada, invested in land companies.<sup>42</sup> In this way banks would have recovered their investments in scrip plus a reasonable profit. However, given the risks involved, we have always been puzzled by this massive speculation by banks in scrip. This has led us to the conclusion that banks had other reasons for their speculation. The demand for bank loans at the time were in excess of what branches of banks in the west were allowed to lend. Since, we do not have access to bank records, we can only assume what the real motive of the banks was for scrip speculation. However, we do know enough facts about bank operations and the money supply in the Northwest to arrive at what are likely accurate, if not provable, assumptions.

Government records and correspondence, the records of the Northwest Territories Council and other documents indicate that the Northwest was in a more or less continuous depression from the early 1870's until 1886.<sup>43</sup> The reason given was the lack of money. The government was taking more money out of the economy

than it was putting back in. Immigration was slow and immigrants had little money. The establishment of new businesses was also retarded because of the lack of money. Banks were making few loans since the risks were high, and since they could get better returns from their loans in central Canada.

Shortly after the rebellion, banks began to acquire scrip. Loan conditions were eased and indeed loans became readily available to anyone who applied. We suggest that banks were using scrip to create low risk money, which they were now prepared to invest in a high risk loan market. As is known, banks can issue currency both against deposits and assets. The ratio of loans to assets at the time was high since the government wanted to increase the money supply. We know from House of Commons Debates on Bank Act Amendments, in the late 1920's, that at that time the ratio was \$10.00 in loans for every \$1.00 of bank assets.

Assuming that ratio held for 1888, we can construct the following scenario. The Imperial Bank manager in Moose Jaw (this bank was very active in buying scrip) purchases \$1,000 in money scrip at a cost of \$300 to \$350. He can now loan up to \$10,000 against this asset at 6% interest or a return of \$600 per annum. Even if the loan losses run as high as 50%, the bank stood to make money. Eventually the bank could still sell that asset to someone else, such as a settler who wanted to acquire land, for a price probably slightly discounted from the face value. Not only did the banks stand to make enormous profits and to rapidly increase their assets, but the government managed to increase the money supply to encourage rapid settlement and development. We suggest the government was fully aware that the banks were using scrip in this way and that it was likely unofficial government policy to ensure that scrip found its way into the hands of banks. This may even have been a key policy consideration when the decision was made to distribute scrip to extinguish the Metis land claim.

IX

How Did the Government Facilitate Speculation?

The ways in which the government facilitated speculation

have to a large extent been already identified. We only summarize these here, and add a few additional comments.

a) The use of money scrip which was easily transferrable and could be used by anyone was the greatest aid to speculators. The departmental rules dealing with assignments could be easily circumvented.

b) By not vesting land titles in the Metis person receiving the scrip and by allowing scrip to be located anywhere in the Northwest on open Dominion Lands.<sup>45</sup>

c) By freely sharing information with speculators such as schedules, census lists, and advance notice of new scrip issues.<sup>46</sup>

d) By allowing speculators to openly travel with the commissions and simultaneously buy up scrip being issued. The government could have curbed this practice if it wished.

e) By not making special laws to deal with the question of an aboriginal claim, but by treating such a claim as personal property, and/or real estate subject to the British Civil Law. This ensured that certain rulings supposedly designed to protect the Metis recipient, would be challenged as illegal.<sup>47</sup>

f) By changing rules and practices on matters such as Powers of Attorney and Assignments to make it easier for speculators to locate their scrip. In 1893, an O.C. was passed allowing patents to be issued to all Assignees, whether the allottee is dead or alive.<sup>48</sup>

g) By allowing disputed and disallowed claim after pressure is applied by speculators who bought them. For example, in 1886, a Winnipeg barrister, Thomas Hanover, tries to register 2,960 acres of scrip obtained from persons whose claims are disallowed. Hanover first petitions parliament and then appeals directly to Macdonald. A petition to parliament is sworn out in 1898 and in 1899, the department decides to approve all of the disallowed scrip claims held by Hanover.<sup>49</sup>

h) By advertising the names, availability and prices for scrip in Dominion Lands offices.

i) By allowing Halfbreeds to withdraw from treaty without explaining the implications and consequences to them.

j) By passing an order-in-council to allow scrip to be used for purposes other than for which it was issued; that being to entitle the allottee to a land grant and patents to that land. The other uses included payment for pasture, coal, and timber leases.

k) By changing the law in 1900 to allow several individuals to combine their scrip to acquire one large tract of land or to allow companies to combine the scrip of a number of individuals to acquire large tracts of land.<sup>51</sup>

l) By setting up a banking service for the scrip speculators. They could redeem certificates and have the notes deposited to their account in Ottawa. When they acquired tracts of land or other leases, they could have the department credit their account in Ottawa, transfer the scrip to the appropriate land office, which would then locate the scrip on land which had been agreed upon in advance and which was being held for the speculator. One example was the Imperial Bank location of scrip on land in the Saskatchewan Valley Land Company tract.

m) By refusing to take legal action against speculators who were clearly in violation of the law.<sup>52</sup>

n) By having parliament pass legislation to legalize the actions of speculators which were quite likely illegal.

X        The Legality of Scrip Speculation

The government of the time passed no laws which made speculation in Halfbreed scrip illegal. This was particularly true in the case of money scrip which was ruled as being personal property. The position under personal property laws was that once the scrip note was delivered into the hands of the allottee or his agent, it was his/her to do with as they pleased. There were questions about the legality of purchasing the scrip of a minor. The government originally took the position that a minor could not legally dispose of his/her scrip.<sup>53</sup> They later modified this position to say that the scrip of a minor could not be located until that person reached twenty-one years of age. However, there is no indication that the government monitored this situation or

that they refused to bank the scrip of minors for speculators in their scrip accounts in Ottawa.

In the case of land scrip, the law only allowed this scrip to be located on land by the allottee and patents had to be issued in the name of the allottee. This would mean that the buying and selling of land scrip notes was not recognized as legal. However, there was no specific penalty for breaking this law and there is no known case where the government ever took action against a speculator. This ruling certainly did not stop speculators from buying scrip. Even the prestigious chartered banks bought some land scrip.<sup>54</sup> As an asset it would serve their purpose of creating money. What is not clear is how they eventually disposed of such scrip.

However, the chartered banks at that time, and up to recent times, were prohibited from dealing in real estate or from owning real estate. The exception was that property and real estate they required to carry on their business. Any property or real estate they acquired through default on loans and mortgages had to be disposed of as quickly as possible and could not be held for speculative purposes.<sup>55</sup> Therefore, there can be no argument that buying land scrip, which had been ruled as real estate, was illegal under the provisions of the Bank Act. The government was obviously aware that banks were buying some land scrip, but it took no legal action against them nor did it take any action to curb this practice. Indeed the question of speculation by the banks is simply never raised in official correspondence, in House of Commons Debates, or in any of the media, which often covered the activities of scrip speculators in some detail.

The question of banks buying money scrip, which they bought in large quantity, is somewhat less clear. Since money scrip was considered personal property, the banks many have argued that they could purchase it without violating their charters. However, the government ruled that this class of scrip also became real estate when it passed from the allottee to the assignee or to an heir.<sup>56</sup> Therefore, the banks were in fact buying real estate

when they were buying money scrip. If the banks purchased this scrip from heirs, as they often did, it was clearly real estate before it was acquired by the banks. Again, we must conclude the practice of purchasing money scrip was illegal under the Bank Act. The government had to be aware of this fact and was certainly aware that the banks were buying, since they maintained scrip accounts for them. In spite of this, the government never questioned this practice, took no legal action against the banks, and did nothing to curb the practice.

There were other aspects of scrip speculation which were also illegal. There is clear evidence that land scrip was being located fraudulently. Fillmore in his article on scrip describes how this was being done.<sup>57</sup> The government agents had to be aware of these fraudulent activities. These acts were offenses under the Criminal Code of Canada. Again, no action was taken against the law breakers in spite of complaints received by the government. Also there was a good deal of fraud in the obtaining of Powers of Attorney and Assignments. The evidence that speculators fraudulently represented themselves as government officials or as persons willing to act as agents for the Halfbreeds, to help them obtain their scrip, is well documented. There is correspondence from government officials such as the Indian Agent Ruttan, numerous written complaints from both Catholic and Protestant clergy, and charges in newspapers and in parliament.<sup>58</sup> The government's reaction to these complaints was that such dealings were none of their concern and that if individuals had complaints, they could deal with them through the courts. When criminal charges were belatedly initiated, the government passed the Statute of Limitations to prevent prosecution.<sup>59</sup> Indeed the government's argument that it had no responsibility for the illegal acts of speculators is not correct. The Crown can initiate legal action under the Criminal Code against law breakers on its own. This is the normal way of proceeding in the case of criminal acts. Requiring the individual or group against whom the illegal acts are committed, to press charges, is an exceptional requirement. Since the Government of

Canada was responsible for the maintenance of law and order in the Northwest at the time, it clearly was able to initiate criminal charges and had a responsibility to do so.

There may have also been other kinds of illegal acts involved in scrip speculation, such as the falsifying of records by land agents, or speculation by land agents. Although there are no hints that these occurred, further research will be required to obtain evidence of such illegal acts.

#### XI        Government Ethics, Morality and Trust Responsibility

In a previous discussion paper, we briefly touched on the question of the trust relationship of the government toward the Metis people. We will only restate here that in our view such as trust responsibility did exist. The government's relationship to the speculators and its refusal to take any action to protect the Metis people from the speculators is a clear violation of this trust.

The ethics and morality of politicians and government officials is also open to question. Ethnically, the government's responsibility was to protect the Metis' interest in the land and to ensure that the Metis people benefitted from their interest and from the compensation given in return for relinquishing their interest. Although, the government went through the motions of ensuring that everything was legal, its real objectives were not to protect the interests of the native people, but to get their land away from them in a way which was expedient, which cost the government little, and which would stand up in a British Law Court. The goal, however, was to get clear and undisputed title to the land, to push the natives out of the way, to establish a semblance of law and order, and to promote settlement and development of resources. To do this, transportation and communications systems must also be developed.

The government needed the speculators for several reasons. First, their agitation and supposedly on behalf of the Metis, created political situations, which enabled the government to act

to deal with Metis claims in the face of opposition from voters in eastern and central Canada. Second, the purchase of land rights from the Metis would serve to get them out of the way of settlement and other development. Third, such action would create a cheap and surplus supply of labour necessary for development activities such as the construction of the railway. Fourth, it served to create money which could be loaned at low risk and therefore on favourable terms, thereby overcoming the chronic shortage of money for investment purposes in the North West. Fifth, to have some land in the hands of speculators would ensure that these persons would actively recruit settlers and potential developers and businesses, to realize a profit on their investments. Finally, by allowing scrip to be used to acquire coal and timber resources, the government succeeded in having some of these resources developed. Under normal circumstances, the development of these resources would have been of very marginal profitability because of the distance to markets.

One can only conclude that where the government was concerned with issues such as economics, settlement and development, these considerations took precedence over ethics and morality.

## FOOTNOTES

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