THE NORTHWEST SCRIP COMMISSIONS AS FEDERAL POLICY - SOME INITIAL FINDINGS

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ABSTRACT/RESUME

A series of 13 Scrip Commissions heard the claims of Metis in Manitoba and the Northwest Territory during the late 19th and early 20th centuries. The author argues that the existence of these Commissions represents a policy change that was inappropriate for the Metis. He points out many inconsistencies, and concludes by suggesting that current policy indicates that government has not learned from its past mistakes.

Au cours des dernières années du dix-neuvième siècle et au début du siècle suivant, une série de treize commissions Scrip a étudié les revendications des Métis du Manitoba et du Territoire du Nord-Ouest. L'auteur prétend que l'existence même de ces commissions représente un changement de politique qui répondait mal aux intérêts des Métis. Il décrit les nombreuses incohérences de cette politique, et conclut en suggérant que la présente attitude du gouvernement montre qu'il n'a tiré aucun enseignement de ses erreurs passées.

I wish to sketch briefly research I am now undertaking on the Northwest Scrip Commissions. As is widely known, the Commissions were the formal mechanisms for extinguishing claims of the Metis and Non-Status Indian population in areas where treaties had been signed. I am attempting to examine all the Commissions since they are an important link in the analysis of the relation between the Canadian government and the Native people. Too few have considered the importance of the Scrip Commissions in conjunction with the Treaties. As is also well known, the various Provincial Metis and Non-Status Indian Associations have been engaged in research on these Commissions as they pertain to the Specific Claims policy in their particular jurisdiction. There is little doubt that this work documents clearly the specific failures in the policy of extinguishment.

Scrip Commissions and Federal Policy

My work deals with the Scrip Commissions from a slightly different angle. In most general terms, the focus is on the Commissions as they represent government policy toward the Metis. Several difficulties and objections with such a project come immediately to mind. First, one might wonder how political "ad-hockery" could be considered policy. My viewpoint is generic in the sense that I consider government accountable for its activities even if they are taken on a piecemeal basis. Hence, the demand that these decisions be looked at as policy forces a comprehensive accounting of activity. A second objection may be that actual practice deviates significantly from the stated policy. This point is conceded, but with some qualification. Pelletier, Sealey, and several Metis organizations have shown clearly how scrip policy turned into a device for speculators. Yet, this does not seem to be an adequate reason for ignoring policy. The crux of the analysis is the connection between policy and practice. By only dealing with scrip fraud one may be deflected from some of the issues of substance. This touches on a third objection against policy as a focus for study. Put in current jargon, the objection would be that examination of public sector policy without considering the impact of the private sector is like examining the barn door after the horse is out. The matter of the relative autonomy of the state has been much discussed in social science in recent years. My own view is that the government has been a significant actor in matters of development and cannot be relegated to a minor role in the so-called "opening of the West". To the extent that those decisions were of consequence, they should be critically examined in a comprehensive sense. It is the notion of policy which provides just such a vehicle.

Despite the legitimacy of these objections, there seems to be some justification for an examination of this wide range of activity in a comprehensive sense. Since there has been no study of this activity as a whole, developing the rudimentary base of information seems justified.

The government extinguished claims by means other than the Scrip Commissions - although these were the most common device. In certain areas and periods, Dominion Lands Agents were allowed to take scrip applications.
addition, a number of Orders-in-Council approved applications which were considered exceptional.

I suggest that the combination of the following criteria be used in defining the Scrip Commission:

1) the existence of a treaty and Metis or Non-Status Indian claims in the area;
2) a statutory basis for such activity - whether the Manitoba Act or the Dominion Lands Act;
3) provision for decisions regarding eligibility and the form of allotment to be made (this would include matters like residence, aboriginal status, and date of birth); and
4) specified persons who are authorized to conduct these investigations and appear at certain places during certain times.

The last point is somewhat derivative from the other three, but is important to include in order to set limits on these activities.

Using these criteria, I have identified 13 Northwest Scrip Commissions, which allowed 14,133 claims and allotted a total of $2,885,157 in money scrip and 2,609,772 acres in land scrip. It is possible to arrange these commissions into four separate groupings: those relating to the Northwest Rebellion, Treaty 8, Treaty 10 and Treaty 11.

In sections which follow I wish to discuss some general considerations regarding government policy and some initial findings on the activities of Northwest Scrip Commissions in the period of the Northwest Rebellion.

The National Policy and the Department of the Interior

The basic components of Federal policy touching the Northwest Scrip Commissions are the National Policy and the Department of the Interior. If the former was the end of governmental activity, the latter was the apparatus through which it was to be achieved.

Smiley has described the National Policy as a set of decisions in which an attempt was made to integrate the Maritimes, the western and northern peripheries into the economy of central Canada (1975:40). This consisted of "three basic national decisions": 1) to acquire, subsequently settle, and develop Rupert's Land and the Northwest Territory as a Canadian frontier region; 2) cause the construction of a transcontinental railway wholly on Canadian territory; and 3) effect the industrialization of the Canadian heartland through protective tariffs.

Settlement of the land, construction of the railway, and tariffs were basic decisions around which both the Maritimes and the Prairies were to be integrated into the national union. In a more recent analysis, Phillips is even more direct, describing the National Policy as "... the creation of a national economy based on the west as an internal colony tributary to the commercial, financial and industrial empire of the St. Lawrence" (1979:3). Smiley lists a number of
ways in which this came about:

1. there was a continuing pattern of controlling the political authorities of the hinterland in the interests of the heartland;
2. metropolitan policies confined the hinterland to the production of a small number of staples;
3. metropolitan policies required the hinterland to buy the manufactured products of the heartland;
4. the hinterland and the heartland were physically linked by transportation facilities established and characteristically operated for the benefit of the latter;
5. capital development in the hinterland was carried out through institutions centered in the heartland;
6. in international economic relations, the interests of the hinterland were usually sacrificed to those of the heartland;
7. many of the critical aspects of the heartland-hinterland relations were carried out through the instrumentalities of large business organizations protected by the imperial authorities from foreign or hinterland competition. (1975:43).

Development in a "hard frontier" involved the emergence of a National Policy based on at least three important relations. First, as in other parts of the western world, the notion of commercial profitability of the use and export of staples was the prime criterion and vehicle for development. Second, the role of the state in this development was significant partly because it was crown land in which the various resources were developed. Third, a centralized economic role for the state was manifest. As Rea suggests:

The role of the state in this country has traditionally been an economic one. Indeed, a government strategy for economic development was the essential element in the birth of Canada. This strategy did not reflect the values embodied in the American cultural myth: popular government, competitive enterprise, decentralization of authority. Instead it favoured responsible government, monopoly enterprise, and centralization of authority. In such an approach there was no more reason to think that business and government should be opposed or even separated than there was to think that the cabinet should not sit in the legislature.

(1976:76).

It is around the fur trade and the consequent "opening of the West" that so many Native communities have been formed. It is within this series of staples developed for export that the Metis and Non-Status Indian people have been incorporated into Canadian society. Rea has suggested the basic elements from the fur trade which form the context in which so many Native communities are found:
1. The communities became dependent on an outside agency;
2. The trade routes and water routes were the major source of employment;
3. Services or administration were handled primarily by Colonials;
4. The resource base was narrow,
5. Income was based on seasonal employment and vulnerable to changes in international markets over which there was little control.

The National Policy structured the setting in which Native people lived, worked, and gained their subsistence. The end of this policy involved exporting staples and was the dominating factor affecting the livelihood of the Metis and Non-Status Indian people. These abstract goals were implemented through the Department of the Interior.

A concise summary of the operation and history of the Department has been provided by Bellamy and Poapst. This "executor of the National Policy" was formed in 1873 in a manner similar to the British Colonial Office. It was highly centralized throughout most of its history, although there were some periods of relative decentralization in which decision-making was subject to large discretionary powers by administrators. At various times, the Department included the following functions: The Dominion Lands Branch, Indian Affairs; Immigration; Agriculture; the Northwest Mounted Police; Timber and Forestry; Mining; Irrigation and Grazing Lands, and administration of the Yukon District. From 1878 to 1880 Sir John A. Macdonald was both Prime Minister and Minister of the Interior, indicating the centralization of power.

As the nature of development shifted from management of the lands, the Department began to lose its various agencies. In 1931 the Department of Trade and Commerce became noticeably active in its efforts to assume a number of these functions. The establishment of the Prairie Provinces in 1905 led to the diminution of some of these functions, but the available evidence strongly suggests the highly centralized and/or discretionary nature of the administration of the Department. Further policy analysis requires showing the manner in which the Department of the Interior implemented the National Policy through its activities in the Scrip Commissions.

Manitoba and the Scrip Commissions

Scrip Commissions as a mechanism arose from the failure of government to deal with the claims of the Metis in Manitoba. This has been documented by Kemp, Pelletier, Sealey and Taylor. The statutory basis for the claims rests in Section 31 of the Manitoba Act:

And whereas, it is expedient towards the extinguishment of the Indian Title to the lands in the Province, to appropriate a portion of such ungranted land to the extent of one million four hundred thousand acres thereof, for the benefit of the families
of the half-breed residents, it is hereby enacted, that, under regulations to be from time to time made by the Governor General in Council, the Lieutenant-Governor shall select such lots or tracts in such parts of the Province as he may deem expedient, to the extent aforesaid, and divide the same among the children of the half-breed heads of families residing in the Province at the time of the said transfer to Canada, and the same shall be granted to the said children respectively, in such mode and on such conditions as to settlement and otherwise as the Governor General in Council may from time to time determine. 8

The crucial phrase is the one which declares the 1,400,000 acres of land be set aside for "the children of the half-breed heads of families". As Sealey has shown so clearly, there were ambiguities arising from interpretation of this phrase, delays in implementation, and administrative stalling which kept a settlement for the Manitoba Metis "on hold" for six years (1975:67-79). In 1874, the notion of a scrip was introduced into these deliberations and by 1875 the Department had decided that a commission would best administer the processing of various claims. By this time, of course, a number of Metis had left or fled to the Northwest Territories or the United States. And settlers, through the work of speculators, had moved into the heartland of the Red River area.

The Dominion Lands Act

In 1879, the statutory basis for land policy was given assent, authorizing the Governor in Council:

To satisfy any claims existing in connection with the extinguishment of the Indian title, preferred by half-breeds resident in the North-West Territories outside the limits of Manitoba, on the fifteenth day of July, one thousand eight hundred and seventy, by granting land to such persons, to such extent and on such terms and conditions as may be deemed expedient. 9

Four years later, the wording was changed so that claims preferred by "half-breeds resident in the [N.W.T.] previous to the fifteenth [July, 1870]" were to be granted land.10 The major significance of lodging Metis claims in the Dominion Lands Act is that they were now essentially treated as another class of homesteaders. As Taylor points out, this meant - among other things - that they had to wait three years before title could be issued on land (1975:23).

The Northwest Rebellion

Policy of the period was framed in reaction to the growing unrest in the Northwest and J.A. Macdonald's political ambitions. In late 1884, Riel and some Metis from the Settler's Union had submitted a major petition to the Govern-
ment concerning their claims and demands. Reports regarding the seriousness of the protest were cumulating in Ottawa. Adams reports that between 1878 and 1884 eighty-four petitions had been received from the region on behalf of Metis regarding their claims to land (1975:82). Even Stanley felt that the case against the Government was conclusive:

\[\text{... one cannot escape the impression that the Federal Government were, in the words of Blake, guilty of 'grave instances of neglect, delay and mismanagement in matters affecting the peace, welfare, and good government of the country'. (1960:261)\]

It was undoubtedly the pressure of these events which led to the 28 January, 1885 authorization to enumerate eligible Halfbreeds regarding Scrip. It should be noted, however, that this referred only to Halfbreeds "who would have been entitled had they resided in Manitoba at the time of transfer." 11 This was hardly a major concession. In late March, Riel seized hostages at Batoche and proclaimed the new Provisional Government. This led to the decision on 30 March, 1885 to cancel the previous Order-in-Council; give powers to a commission to report to the Government on eligible Halfbreeds to be dealt with; and to set aside land for both Halfbreed heads of families and children. 12 By early April, the Scrip Commission was in the area attempting to counteract some of the discontent and rebellion. Crozier had been badly defeated at Duck Lake and news of the Frog Lake incident had just arrived. General Middleton and his troops were leaving from Fort Qu'Appelle toward Batoche.

W.P.R. Street, Chairman of the Commission wired the following report:

\[\text{Important conference today with influential Halfbreed deputation. All difficulty removed excepting two. First - all children will refuse money scrip demanding certificate for two-forty acres land instead, like Manitoba. Several bishops and priests support this demand. Second - Halfbreeds having homes on small front acceptable to buy these at one dollar per acre and free grant one-sixty acres from nearest vacant lot. Govt. land additional to allowance to extinguish Indian title. See Jackson's letter September third to Langevin. These two concessions absolutely necessary if Commissions... (the text breaks off at this point in document) 13}\]

Within a week, Order-in-Council 821 authorized just these two provisions. 14

Types of Allotment

This correspondence highlights the importance of the type of allotment which would be made in extinguishing claims and the attempt to alienate the land. In the first provision, the question of whether scrip would be given for land or whether money scrip would be awarded is a most contentious issue. This will only be discussed briefly here since material from the Treaty 8 proceedings is
essential to a thorough analysis. Probably the Clergy were originally concerned about the impact of speculation and the resulting loss of any land. This would lead them to emphasize the importance of not awarding money scrip. On the other hand, all the pressures were to provide the most convenient (i.e., liquid) form of remunerations possible. Six weeks following this, the earlier decisions were reversed, allowing both types of scrip to be allotted.

A second type of allotment involved persons who were already settled along water frontage. The decision was made that small water frontages where Halfbreed families were at present in bona fide possession by virtue of residence and cultivation would be confirmed. It was agreed that these should not exceed forty acres, but neither should they count as the compensation for the extinguishment of title. Rather an additional 160 acres in the vicinity would be allowed the Metis settlers. It was further noted that these waterfront areas would be sold at one dollar per acre with payment in two years to receive patent.

At this point, I would like to follow the consequences of this particular decision through for a generation as it affected people living at Green Lake, in west-central Saskatchewan. There are three ways in which the application of Homestead regulation like the above seriously undermined even the best efforts of Metis settlers. This is without pointing out further that there seems to be no sense at all in having to pay anything for land to which you have a right.

The first of these was the price of land, the second was the patent fees being charged on the land, and the third involved charging of interest on time-payments for land. The Metis settlers at Green Lake were forced to wait for a decision while two different surveys were undertaken (one of them was inaccurate). During that period of time, the Department raised the price for the transfer of land. By 1919 the cost was $3.00 per acre. In cases where occupancy could be demonstrated back to 1876, "free" grants were to be awarded. But, as N.O. Coté noted in the case of Mrs. Matilda Laliberté, the cost of obtaining the necessary letters of administration of her husband’s estate would probably be more expensive than purchasing the land. 15

It was decided at the early part of the century to charge the patent fee for persons acquiring land. Where the cost of a typical lot at Green Lake would be around $20.00, the patent fee raised this to $30.00. In the case of Mrs. Girard, a widow living on $15.00 a month and raising one child, even N.O. Coté, Controller of Lands Patent Branch, was moved to allow purchase on time payments and waiver of the patent fee.

Hardest hit were those who actually began what was called a time sale of the land. They were charged six or seven per cent interest, compounded semi-annually. This was not initiated, however, unless one made a down-payment. Take, for example, the case of Celestin Mirasty. His lot of 9.77 acres cost $29.31. In 1920 he made a payment of $10.00. By the summer of 1922 the interest charges and the principal had created a total balance of $32.41 - greater than the original price. Mrs. Josette Sinclair, lived on a lot of 11.9 acres which would be purchased (not including patent fee) for $35.70. In late 1920 she paid $15.00 on this. By the end of 1925 (and the Department had
worked out future interest) she owed $47.86. Today the problem of people living on fixed incomes is highly publicized. But these settlers were forced to wait years through delays in surveying, deal with increases in the cost of land, and pay patent and interest fees. The examples show how the administrative apparatus designed for homesteading further alienated the Metis from their rightful claims to land.

Changing Criteria for Eligibility

By mid-May Riel had been defeated at Batoche and at the end of the month most of the operations in the field were coming to a close. It is on July 2 that a most interesting decision was made regarding scrip. 16

The elements of the decision include: a) specifying a new population of mixed blood persons which had been precluded from consideration by the Scrip Commission; b) confirming that this population was eligible for scrip; and c) recommending that claims be thus provided to that population.

The population considered here is those Metis who are: a) British subjects; b) born before 15 July, 1870; and c) have resided all their lives in the Northwest Territories. In some cases, these Metis were not the children of Metis, but "of pure Indian and white parents." It had previously been held that if married before 15 July 1870, these people were Halfbreed Heads of Households and were eligible for scrip. But if they were not married, they were not eligible. This refers to the population of unmarried mixed-blood children of Indian and white parents who were not married by 15 July 1870, although born before that time, being British subjects and having resided all their life in the Northwest Territories.

It was then argued that according to the 31st Section of Chapter 3 of 33 Victoria, the definition of children of Halfbreed heads of families "... shall be held to include all those of mixed blood, partly white and partly Indian, and who are not heads of families." 17

The recommendation was to make such persons eligible for scrip. It appears to me that this constitutes in principle recognition of an entirely new population of Metis. While previous Acts referred to residents as Halfbreed heads or their children, we witness here an acknowledgement of another cohort of persons who are mixed-blood (to use their terms) and who are now thus to be subsumed under the term, Halfbreed. The consequences would seem to be that even if a Government might argue that it had extinguished claims of the Metis, it had recognized a new cohort of mixed-blood people in this decision. If so, one can ask on what grounds would later cohorts not be recognized?

Extinguishment without Treaty

In early 1887, petitions were received by the Department to award scrip to the residents of the Green Lake area. Since existing policy precluded any such arrangement in areas that had not been ceded by Treaty, the formal response from the Department was negative. Roger Goulet was in the vicinity of Green
Lake completing scrip claims left over from the previous commission dealing with original White Settlers. As a result he was directed to proceed to Green Lake where he took applications from a number of settlers. These were "reserved" for further consideration. During the following year, arrangements were being made to "get Indians quietly into Treaty." \(^{18}\) By 29 November 1888, Lt. Col. Irvine and Goulet were authorized to reach an agreement with Indians living in the Green Lake-Montreal Lake region of Saskatchewan. \(^{19}\) Examination of the dispositions regarding scrip show that of the 48 persons who were awarded scrip, 34 involved immediate purchase by speculators. Of these, 19 were buyers from Osler and Hammond and 15 were sold to the Managers Merchants Bank of Winnipeg. \(^{20}\) It had been held that Halfbreed Scrip could not be dealt with until a treaty had been completed with the Indians of the area. While this doctrine had been challenged, it was in 1889 that it was relaxed. Goulet discovered at Green Lake that a significant number of persons were actually from Isle à la Crosse - outside the Adhesion to Treaty 6 area. There was a serious dispute that ensued in the Department regarding acceptance of these claims. \(^{21}\) The implications of this were not lost on key administrators like A.M. Burgess. Nor were they lost on some of the major speculators of the period. By an Order-in-Council on 18 March 1889, the issue was resolved. It was decided that ",... it would be advisable and in the public interest that these claims be finally disposed of, notwithstanding the residence of the claimants... in territory which had not yet been ceded." \(^{22}\) Later correspondence shows that recognition of Metis claims did not require previous surrender of the area through Treaty.

In summary, we can see even from these few examples that the policy was inappropriate to the claims of the Metis and inconsistent on each of the major points. The statutory basis - the Dominion Lands Act - was ineffective in insuring Metis claims. The types of allotment were both inappropriate and inconsistent. Changing criteria for eligibility suggest to this writer that a principle of recognizing new populations of mixed-blood people was confirmed. Finally, the principle of basing recognition of Metis claims on Treaty was also modified.

While it can be observed that hindsight is better than foresight, it is just as correct that current Federal policies represent an inability to understand or correct previous shortcomings.

NOTES

1. Paper presented to the Metis Symposium, Winnipeg, Manitoba, November 5 & 6, 1982. The author wishes to acknowledge the support of S.S.H.R.C. and the Native Council of Canada in various sections of research discussed within the paper.

2. A notable exception is Rene Fumoleau, *As Long as This Land Shall Last*, (Toronto: McClelland & Stewart, Ltd., undated).
3. For an example of an attempt to examine Federal policy towards Metis and Non-Status Indians from the Depression to the present, see Ken Hatt, *From Non-Recognition to Claims Disposal*, (Ottawa: Report prepared for the Native Council of Canada, 1979). In this paper, use of the term "Halfbreed" is employed only as necessary in actual references used by other writers. It should be understood that the author in no way condones the racist nature of the term.


8. 33 Victoria, Ch. 3, Sec. 31, 12 May, 1870.

9. Dominion Lands Act, 42 Victoria, Ch. 31, Sect. 125(e), 15 May, 1879.

10. Dominion Lands Act, 46 Victoria, Ch. 17, Sect. 81(e), 25 May, 1883.


14. P.A.C. RG 2, 18 April, 1885, P.C. #821.

15. P.A.C. RG 15, Vol. 491, File 138557. Examples in the Section are found in this file.

17. Ibid.


19. Ibid.


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