

Review Draft

**Governance Study:
Metis Self-Government
in Saskatchewan**

August 16, 1993.

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I. Introduction

The Metis of Saskatchewan have never given up their right of self-determination. Through their representative political body, the Metis Society of Saskatchewan (MSS), this expression of self-determination has manifested itself into a drive for the attainment of self-government and a land base.

Although internal political developments have taken place over the past two decades, the greatest concentration of Metis efforts on self-government found full expression in the constitutional processes of 1983 - 1987 and 1991 - 1992. While no substantive achievements were realized, nevertheless the debate generated during that time has been of significant assistance in getting the concept of Aboriginal self-government accepted by the Canadian public and governments.

This dialogue and negotiations process has also given added momentum to Metis people and communities in struggling for the recognition and implementation of self-government as it has been embraced by other Canadians. It is an objective that can now be openly espoused and advocated. As a consequence, this open dialogue complements internal developments currently being pursued by our people.

As demonstrated in the following sections, the Metis of Saskatchewan have been slowly building the foundation or infrastructure for self-government. This includes

the democratic exercise of elections and the creation of affiliated institutions which deliver programs and services. In the following pages, we will explore ways by which we can continue to build on this process in order to plan and implement practical and realizable Metis self-government structures. In this connection, the major emphasis will center on what is achievable on a non-constitutional basis. This will include an examination of Metis internal developments, as well as the recent tripartite and bilateral processes entered into with the federal and provincial governments in the first instance and the province in the second.

The study will also address how we as Metis in Saskatchewan will be involved with other governing bodies, such as the provincial and federal governments. While striving to be self-governing the Metis of Saskatchewan cannot allow themselves to become isolated from the other forms of government which affect their daily lives.

Finally, it is hoped that by offering concrete developments and proposals the Royal Commission on Aboriginal Peoples will be able to assist our people in moving non-constitutionally based self-government forward. At the same time, we encourage the Commission to continue advocating the entrenchment of the inherent right of Aboriginal self-government in Canada's Constitution as one of three orders of government.

II. The Meaning of Self-government to Metis in Saskatchewan

Introduction: Reactions to the Idea of Self-government

"Self-government" is a concept which has taken on considerable significance within both Aboriginal as well as non-Aboriginal communities. For a number of years now, the Metis, as one of the constitutionally recognized Aboriginal peoples, have carried out workshops, meetings, and conferences intended to define the meaning of Metis-specific self-government, determine its structural or institutional forms, and identify strategies for bringing their vision and aspirations into reality.

Reactions among non-Aboriginal politicians and the general public to this process, especially to the basic idea of self-government, have varied widely. On the one hand, some have endorsed the concept willingly, recognizing that this represents an important opportunity for making positive changes to the currently unacceptable living conditions and other inequities endured by many Metis people. With self-government would come the degree of control over institutions, programs, and services that Metis individuals and communities have long desired to protect and strengthen their political, social, and cultural values.

On the other hand, critics have questioned the goal of self-government in principle by challenging the notion that the Metis possess inherent rights. Even when there

is limited acceptance of the goal of self-government, many argue that movements in this direction on the part of any group will lead to ever wider fissures in the political landscape of Canada. From this perspective, decentralization supposedly has, on balance, more negative than positive implications for the economic, political, and social future of the country. Opposition is raised against all those who attempt to challenge the status quo, whether they be Metis, Treaty Indian, Inuit or, for that matter, regional political parties and interest groups.

Other non-Aboriginals have insisted upon having greater clarification before committing themselves to any policy position stemming from the self-government question. Before agreeing to support the Metis vision, they demand to know the details of what the future may bring. The assumption is that the implementation of self-government should not proceed until all of the ramifications, no matter how minor, have been thoroughly explored.

Various other objections to self-government have been raised, some directed at the concept and objectives, others criticizing the process by which it would be achieved. Attempts to amend the Constitution in a manner consistent with Metis self-government aspirations have, of course, proven unsuccessful thus far. Many of those directly involved in the most recent effort, the negotiations leading up to what was popularly called the "Charlottetown Accord", expressed disappointment with the results of the October Referendum, but also pointed out the flaws in the process. The

seemingly endless Constitutional talks, rather than clarifying the amendment options and developing workable agreements (while also building, it was hoped, an eventual consensus), evidently led to general confusion about the goals and implications of Constitutional change, including areas related to self-government.

Historical and Social Contexts of Metis Self-government

Taking into account these historical events as well as the current spectrum of reactions by non-Aboriginal political leaders and the general public towards Metis self-government, there is an obvious need to clarify what this concept means to Metis people in Saskatchewan. At the outset, it is important to note that our self-determination objectives, through self-government, are not new. Metis history bears witness to a lengthy legacy of struggles aimed at asserting our fundamental right to control our own destiny. In what is now the province of Saskatchewan, for example, ever escalating political, economic, social, and cultural disputes between the Metis and the European settlers culminated in the well known Metis resistance against Ottawa in 1885. Other sites in nineteenth century Western Canada were also scenes for conflict over many of the same issues. As might be expected, while the military conflicts that sometimes erupted were relatively short-lived, the political struggle to protect Metis economic, social, and cultural values and goals has persisted.

This enduring theme in our Metis history -- that we as a people have struggled against often overwhelming odds to reclaim our traditional Homeland and assert our sense of nationhood -- lies behind much of the current drive towards self-government. There is a sense of urgency about the task. Living conditions for many Metis, whether they are in rural or urban areas, continue to be appallingly inadequate. Compared to the general population, Metis have significantly higher unemployment and suicide rates, lower health status, poorer quality housing, and lower levels of education (particularly at the post-secondary level).

These inequities, when taken together, form an important context for understanding our movement towards self-government. Metis people seek nothing less than the amelioration and eventual elimination of these unacceptable economic and social difficulties. No one expects that there are simple or easy solutions to these complex problems, many of which have become systemic and institutionalized over time. It will take years, perhaps in some cases a good number of years, to bring about the desired results. But there is the firm conviction among many Metis that real progress cannot be achieved unless we possess political control over everyday life, the kind of control represented in Metis self-government. Through this empowerment, other benefits will follow in the economic and social areas affecting us.

Before expanding upon this conclusion, it is useful to consider in more detail the form and functions of governments. A government, broadly speaking, includes the political

roles and institutions which have the authority and responsibility for maintaining the public order of a collectivity. Put differently, all governments that follow in the democratic tradition are characterized by a fundamental concern with social order or, more specifically, with the patterns of social life. These patterns reflect the common interests -- values, beliefs, customs, traditions, and so on -- of people who think of or define themselves as a group distinct from others. In protecting the public order, a government usually identifies social goals and determines the norms or appropriate behaviors to be followed by its citizens. In many modern societies, these are typically expressed in a constitution or charter and various laws and regulations.

To carry out its political objectives and enforce social norms, a government will create administrative institutions. These structures are usually bureaucratic in nature and have the responsibility for carrying out specific functions. Frequently, the size of these institutions grows with the passage of time and doubts may arise as to their purpose and effectiveness. It then becomes a political decision as to whether or not action should be taken to rectify the situation, that is, to coordinate more fully the political and administrative arms of government.

However this virtually inevitable difficulty is handled by the political leadership of the day, what is noteworthy is the fundamental tension built into governments of the modern age. The administrative apparatus, in implementing its responsibilities, will tend to become detached from the political process. While this development has

positive outcomes (for example, a depoliticized bureaucracy that treats its individual clientele without favouritism is thought desirable by many), it also means that policies are slow to implement and change.

The effects of this tension are readily apparent on the Canadian political scene. According to the surveyors of public opinion, governments at the municipal, provincial, and federal levels are facing a perceptible loss of legitimacy in the minds of a growing number of citizens. The trend suggests that many individuals do not feel that their interests are effectively represented by elected officials. Nor do they have much confidence in the capacity of administrative institutions to deliver programs and services. In short, present day governments, of whatever political stripe, are viewed as failing to carry out their functions in protecting the social order and serving the interests of citizens.

Metis people are no exception to this general perception. Indeed, to reiterate a point made earlier, most believe that their interests have never been represented. In this context, then, the political movement towards Metis self-government may be understood as a viable alternative to a mainstream political and administrative system that has consistently failed to address our goals and needs. Our desire to control our own affairs should be viewed as a positive step, as an expression of nationhood, built upon a history in which the right to self-determination was never relinquished, in which the governing apparatus will have legitimacy in the eyes of its

citizens. At the same time, self-government is not, however, an outright rejection of the dominant system. Metis people will continue to decide as individuals whether or not to participate in the political and administrative processes of government at whatever level.

In building their own self-government institutions, the Metis draw upon a rich historical background of experience. From earliest days, we were a self-governing people, in large part from necessity. Metis individuals were key players in the exploration and settlement of a vast geographic area. As such, they often entered into territories where few if any formal government structures existed. Moreover, these early explorers typically expressed a complex combination of fierce independence and an emerging sense of Metis nationalism. Norms governing their behavior began to take on the form of the "laws of the prairie" and the "laws of the buffalo hunt." These were codes of conduct consistent with the Metis appreciation for the spiritual, cultural, and economic benefits of the natural world.

Much of the self-government during this period was of an informal nature in which an extended family or collectivity would arrive, with the guidance of the elders, at appropriate decisions concerning the behavior of individuals or the group as a whole. Later on, more formalized structures emerged, including the Metis Council of the Red River, the Batoche Council, and local councils on the Metis settlements in Alberta. In addition, Metis communities at Lebret, the Battlefords, Prince Albert, St. Paul,

and elsewhere developed self-governing processes and institutions. These evolved largely in response to the changing environmental, economic, political, and social circumstances of the Metis. All were intended to protect the interests of the developing Metis Nation and its members. All reflected a self-conscious awareness and determination on the part of Metis people to define how they shall be governed and by whom.

This tradition has been maintained to the present day. We continue as Metis individuals and communities to examine, through a number of forums, the concept and process of self-government. Underlying these efforts is a firm commitment to democratic principles, a characteristic clearly visible at assemblies, conferences, and workshops designed to address these issues. Though the discussions are sometimes heated, participants acknowledge a willingness to explore new ideas and hear differing opinions. In short, through engaging in this type of dialog about self-government, we demonstrate key aspects of our self-governing traditions -- an attempt to involve all of those who are present, consideration of the needs and goals of Metis who, for whatever reason, cannot participate, and respect for the views of others.

Current Metis Self-government Structures

The results of the most recent round of self-government discussions may be categorized in many different ways. Perhaps the most useful approach, insofar as the Royal Commission's work is concerned, is to distinguish existing from desired political and administrative government structures. Comments and suggestions have been raised, for example, regarding the current structure of the Metis Society of Saskatchewan (MSS). The MSS originated in its present form in the late 1960s. As part of its evolution, the organization has undergone several modifications, including a name change in 1976 (Association of Metis and Non-Status Indians) to indicate the inclusion of Non-Status Indians within the membership. In 1988, however, various developments, including the Canadian Constitutional amendments enacted earlier in the decade, prompted the return to a Metis only membership and the original name.

The MSS, like other Metis National Council member associations, are operated according to democratic principles. The leadership is elected to a specific term of office on a province wide "one-person, one-vote" basis. Each Metis person in Saskatchewan has a right to membership and may, if he or she chooses, vote in elections or become a candidate. In addition to selecting the provincial level executive, members often participate in their local association. There are now over 100 locals in the province, each of which has an executive elected by the membership. Meetings are held regularly to identify and promote goals as well as address issues

of concern. Locals give direction to regional councils, of which there are 12 in total, which in turn provide direction to the provincial executive and council. Each region elects by regional ballot its representative to the Provincial Metis Council (comprised of the provincial executive and the 12 regional representatives). An Elders Senate serves to offer guidance on matters of critical importance.

As the political branch of Metis self-government, this structure is designed to maximize the participation of Metis members at the local level while also ensuring that regional and provincial interests are served effectively. Policies are established which facilitate working relationships between the MSS and other levels of government. At the same time, this political process serves to identify local, regional, and provincial goals, needs, and concerns of particular interest to our people. Issues of special importance to Metis women and youth are given additional attention.

As with any government, there is also an administrative branch which attempts to implement the decisions made through the political structure. Since its inception, the MSS has sought to provide a wide range of programs and services for our people throughout the province. There are now affiliates in the areas of economic development, employment training, housing, justice and social services, education and health. In effect, the affiliates are intended to enhance opportunities for Metis while

also, in some instances, building economic, social, and cultural bridges with the non-Metis community. More details about many of these affiliates are included in subsequent sections of this report.

Building for the Future

The "member-driven" quality of these self-governing institutions is not entirely unique to the Metis living in Saskatchewan. As the Metis National Council (1992: 23) has noted:

This democratic, "bottom-up" approach to political organization adopted by the Metis associations has ensured that ultimate responsibility for agencies and programs delivering programs and services to Metis people rests with elected leaders who are accountable to the grass-roots membership.

The MNC goes on to explain, however, that not all is well within Metis institutions, largely due to constraints that take the form of external regulations and inadequate funding:

While the Metis people have worked hard to build democratic institutions, their associations are seriously circumscribed by lack of legal authority and resources. Metis associations are restricted in their capacity to grow by the narrowness of the *Non-Profit Corporations Acts* under which they are registered. They have never been given even the limited legal basis accorded Indian band councils under the *Indian Act* or the Metis Settlement Councils under Alberta legislation. Nor have they been provided with sufficient financial resources to effectively exercise their broad mandate.

Given these restrictions which, it should be emphasized, have been imposed by outside, i.e., non-Metis authorities, the task of building effective self-government structures for the next century and beyond becomes more difficult. Participants at the March, 1993 Metis self-government conference and subsequent workshops have criticized the detrimental effects resulting from what are often bewildering federal and provincial government regulations. Many believe that the Metis self-government infrastructure already exists within the MSS's political and administrative branches. A basic problem, however, is that the current parameters for the organization are too limited. We have outgrown the boundaries set for us by others. There has to be a greater flexibility in meeting our aspirations. As one participant commented:

We have to look at developing new and different structures. We have to keep in mind [during] the process of developing these structures that we should not be conceding any of our rights to be a self-governing people.

What, then, should these structures look like? How might they be established? Subsequent sections of this report explore these questions in greater detail. Our people have discussed a number of options and strategies. While doing so, most are adamant that they do not want simply to establish a Metis version of the mainstream government institutions. Instead, they are convinced that it is necessary to tailor political and administrative institutions and processes to the varying local and regional needs of Metis throughout the province.

One significant option under consideration is to determine how land related factors might influence or shape the forms that self-government will take. It is apparent, for example, that in regions of the province where a Metis land base can be established, self-government will look somewhat different than in "off land" situations. In either instance, the rule of law would apply. Political and administrative institutions and processes would follow democratic principles and practices. Metis governments would have to enact legislation or pass administrative orders through proper and legal channels. Accountability regarding the entire governmental apparatus would be ensured, for example, through an electoral process similar to what has operated effectively within the MSS for many years now.

In the case of land based regions, that is, areas where Metis individuals and communities own or occupy identified territories, negotiations between our representatives and their counterparts within the federal and provincial governments would determine the extent of Metis legislative authority. This type of self-government would have greatest applicability in northern Saskatchewan, especially in the northwestern half where much of the population is Metis. Perhaps most importantly, it would enable us to control economic development in these areas while also providing for the proper management of renewable as well as non-renewable resources.

Through the years, our people have discussed at length the shape of land based governments. At a minimum, we should possess the same rights and powers now exercised by non-Aboriginal local (or municipal) governments. In addition, we intend to define the membership of our communities in order to protect the benefits of our land and resources for our people. We would also expect to have authority for taxing these lands and resources or entering into co-management agreements with the provincial government. Full or partial Metis control over the following programs and services (in addition to activities falling under the general category of economic development) would be necessary to promote the interests of all citizens residing on Metis land:

1. Education and training
2. Health services, excluding acute care
3. Social services
4. Policing and judicial services
5. Housing
6. Leisure services

There are additional powers being reviewed for possible inclusion within our self-government mandate.

Self-government off a land base is a somewhat more complicated arrangement. In the southern half of the province, for example, most land is either privately owned or, in the case of Crown holdings, it is leased for specific purposes, designated as a park, or otherwise restricted. Unlike the situation in much of the north, Metis living

in these southern areas tend not to reside in communities where they comprise the majority. The assumption, therefore, as noted in the recent Metis National Council report, *On the Move* (1992: 25) is that:

Off a land base, the decisions of Metis self-government institutions would apply only to those Metis who choose to participate in their affairs. As such, Metis self-governing institutions would possess jurisdiction and responsibility for Metis individuals over a clearly defined range of matters. Metis participants in consultations see their own provincial associations as models for Metis government structures which will promote Metis rights at the provincial level while respecting the autonomy of the Metis at the community and regional levels.

Put simply, it is expected that certain rights, programs and services, especially regarding fundamental Metis economic, social and cultural interests, would apply to all Metis throughout the province. However, those not living on a Metis land base would likely have a narrower scope of control as compared to their "on land" counterparts. Still, they would be able to enter, if they so choose, into partnership agreements or other arrangements with non-Metis authorities to deliver specific programs and services.

The following sections of this report expand upon these and other self-government issues, policies, and processes. One key point should be kept in mind throughout. The era of debating the need for Metis self-government is over. A close study of our history as a people who never relinquished our right to self-determination and who have consistently demonstrated the desire and ability to implement self-government

institutions should remove any remaining doubts about the legitimacy of our cause. Attention should now be focussed on putting in place a strategic plan consistent with our goals as Metis. We anticipate that this plan would be phased-in according to a realistic timetable.

At this stage, what is required from the federal and provincial governments is cooperation on several fronts -- political, financial, and administrative. As noted in the subsequent discussion, we must see, first of all, clear signs that the political will is there to move forward with appropriate constitutional and legislative changes. Facilitating these developments and their practical consequences (Metis controlled institutions, programs, and services) will depend, however, upon the allocation of sufficient financial and administrative supports. With a reasonable amount of effort on the part of all concerned, the self-government scenario presented in the following section is achievable within the foreseeable future.

III. The ideal scenario

As is the case with other peoples and nations, the Metis Nation does not exist in isolation. As a people and a nation, we feel the need and desire to be counted among the members of the community of nations. As descendants of the original peoples and nations of the Americas, who were subsequently colonized by foreign governments, we continue to seek our right of self-determination as a people. Ideally, the modern and still emerging concepts of international law, human rights and democratic freedoms should be able to accomodate our rights and aspirations.

True there has been, and continues to develop a set of legal doctrine dealing with Aboriginal title and rights. However, this body of law is circumscribed by an imposed scope of application. Essentially, such rights and title are subservient to the State within which Aboriginal or Indigenous peoples reside. While we continue to build on this developing set of laws, we must continue pressing for the recognition of our rights as "peoples" under international law.

To begin with, the Charter of the United Nations deals with basic human rights and in its preamble the members "reaffirm faith in fundamental human rights, in the equality of men and woman...". Article 1 outlines the purposes of the United Nations, including cooperation "in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction, as to race, sex, language, or

religion". Article 55 lists the duties of the United Nations and states that "the United Nations shall promote: (a) higher standards of living, full employment, and conditions of economic and social progress and development... (c) universal respect for, and observance of, human rights and fundamental freedoms for all...". Added weight is supplied by Article 56 which provides that "All members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55." For our purposes, the key factor is the appearance of references to "the principle of equal rights and self-determination of peoples" in Article 1, paragraph 2 and Article 55 of the Charter.

That these references are in fact respected and have been adhered to is reflected by the following practice of the United Nations. On December 16, 1952 the General Assembly by Resolution 637 A(VII) recommended, amongst other matters, that "the States Members of the United Nations shall uphold the principle of self-determination of all peoples and nations".

The United Nations General Assembly has also adopted Declarations dealing with the principle, notably the Declaration on the Granting of Independence to Colonial Countries and Peoples, 1960, and the Declaration of Principles of International Law concerning Friendly Relations, 1970. In 1966, the General Assembly adopted by a unanimous vote, two covenants which give added authority and definition to its Charter. These are the International Covenant on Civil and Political Rights and the

International Covenant on Economic, Social and Cultural Rights. Article 1 of both Covenants are identical and state that:

1. All peoples have the right of self-determination. By virtue of this right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter.

These two Covenants came into force in 1976 with Canada becoming a signatory to both of them in that year.

In the meantime, the United Nations had begun to take measures to address the circumstances of Indigenous peoples. While not dealing directly with the right of Indigenous peoples to self-determination with respect to statehood or independence, efforts were initiated to address the United Nations' responsibility to at least protect and enhance the circumstances of Indigenous peoples.

This activity was initially pursued by the Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities. As a result of several studies and by authority of Economic and Social Council Resolution

1589(L), the Sub-Commission, at its 24th session, appointed one of its members, Jose R. Martinez Cobo of Ecuador as its Special Rapporteur to carry out "a complete and comprehensive study of the problem of discrimination against indigenous populations".

Assisting Mr. Cobo in this work was Willemsen-Diaz of Guatemala. In a presentation to the 68th Annual Meeting of the American Society of International Law in 1974, he explained the objectives of the study, stating that they would like to see an adoption of a declaration of principles on this subject and ultimately an International Convention on the Fundamental Rights and Freedoms of Indigenous Populations. He explained that the study was looking at ten subject headings and explained the two critical areas to us (land and political rights) as follows:

7. The right of ownership with particular reference to land. Special measures adopted: (a) to protect isolated indigenous populations and their fauna and flora against expanding non-indigenous settlements or enterprises; (b) to protect the lawful property rights of indigenous populations through investigating, establishing, and obtaining registration of titles to land and water resources acquired by consuetudinary legal procedures; (c) to protect indigenous persons or groups from abuse in case of transfer, rental, or encumbrance of their land, including in certain cases the establishment of prior authorization or later approval by competent communal bodies or administrative or judicial authority; (d) to prevent the use of indigenous customs or the misunderstanding or misuse of non-indigenous laws and regulations as means for divesting indigenous groups or persons of their land or water resources or of their use thereof; (e) to obtain land for indigenous persons or groups and to distribute to them the means for working their land under programs of agrarian reform; (f) to recognize and support authorities within indigenous communities which control distribution of land among their members.

8. Political rights. Attention is focused on the effectiveness of these rights and, in particular, on arrangements that may have been made to (a) recognize certain indigenous communities as local or regional political entities; (b) grant them the necessary measure of autonomy or self-government in political, administrative, and judicial matters, and (c) establish separate representation of indigenous populations at any level in elective or nonelective positions whether legislative, executive, administrative, or judicial and to determine whether these arrangements work to the advantage of the indigenous groups concerned.

With the work of the Special Rapporteur coming to an end, and based on the outcome of its reports, the Sub-Commission by resolution 2 (XXXIV) of September 8, 1981 proposed the creation of a working group to further pursue Indigenous issues. This resolution was endorsed by the Commission on Human Rights on March 10, 1982 and authorized by the Economic and Social Council on May 7, 1982.

The Sub-Commission was therefore authorized to select five of its members, one from each of the five regions of the United Nations, who would be charged with meeting annually and bringing the results to the Sub-Commission's annual meetings. Part of its mandate was to "give special attention to the evolution of standards concerning the rights of indigenous peoples, taking account of both the similarities and the differences in the situations and aspirations of indigenous peoples throughout the world".

The Working Group on Indigenous Populations began its sessions in 1982 and have met every since, except for 1986. During this period the Working Group has been

drafting a declaration on the rights of Indigenous peoples. It should be noted at the outset that the term "populations" rather than "peoples" has been used for the name of the Working Group. This is due to the fact that the use of the term "peoples" connotes the right of self-determination. The choice of words was a conscious effort not to prejudge the outcome of the United Nations' work on Indigenous rights. The issue of self-determination in the Working Group has remained at the forefront.

The Commission on Human Rights at its last session has instructed the Working Group and the Sub-Commission to finalize their work on the draft declaration and submit it for the consideration of the Commission at its next sitting. Therefore the Working Group and Sub-Commission which are sitting in July/August 1993 will attempt to conclude their work on the draft. To date the draft has begun to take a fairly positive approach. The following are some provisions as of 1992.

Fourteenth preambular paragraph

Noting that the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights affirm the fundamental importance of the right of self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development,

Fifteenth preambular paragraph

Bearing in mind that nothing in this Declaration may be used as an excuse for denying to any people its right of self-determination,

....

PART I

Operative Paragraph 1

Indigenous peoples have the right of self-determination, in accordance with international law by virtue of which they may freely determine their political status and institutions and freely pursue their economic, social and cultural development. An integral part of this is the right to autonomy and self-government;

....

Operative paragraph 6

Indigenous peoples have the collective and individual right to maintain and develop their distinct ethnic and cultural characteristics and identities, including the right to self-identification;

Operative paragraph 7

Indigenous peoples have the collective and individual right to be protected from cultural genocide, including the prevention of and redress for:

- (a) Any act which has the aim or effect of depriving them of their integrity as distinct societies, or of their cultural or ethnic characteristics or identities;
- (b) Any form of forced assimilation or integration by imposition of other cultures or ways of life;
- (c) Dispossession of their lands, territories or resources;
- (d) Any propaganda directed against them;

....

Operative paragraph 16

Indigenous peoples have the collective and individual right to own, control and use the lands and territories they have traditionally occupied or otherwise used. This includes the right to the full recognition of their own laws and customs, land-tenure systems and

institutions for the management of resources, and the right to effective measures by States to prevent any interference with or encroachment upon these rights. Nothing in the foregoing shall be interpreted as restricting the development of self-government and self-management arrangement not tied to indigenous territories and resources;

Operative paragraph 17

Indigenous peoples have the right to the restitution or, where this is not possible, to just and fair compensation for lands and territories which have been confiscated, occupied, used or damaged without their free and informed consent. Unless otherwise freely agreed upon by the peoples concerned, compensation shall preferably take the form of lands and territories of quality, quantity and legal status at least equal to those which were lost;

....

Operative paragraph 21

Indigenous peoples have the right to maintain and develop within their lands and other territories their economic, social, and cultural structures, institutions and traditions, to be secure in the enjoyment of their traditional means of subsistence, and the right to engage freely in their traditional and other economic activities, including hunting, fishing, herding, gathering, lumbering and cultivation. In no case may indigenous peoples be deprived of their means of subsistence. They are entitled to just and fair compensation if they have been so deprived.

....

Operative paragraph 23

Indigenous peoples have the right to determine, plan and implement, as far as possible through their own institutions, all health, housing and other economic and social programmes affecting them;

....

Operative paragraph 25

Indigenous peoples have the right to participate on an equal footing with all other citizens and without adverse discrimination in the political, economic, social and cultural life of the State and to have their specific character duly reflected in the legal system and in political and socio-economic and cultural institutions, as appropriate, including in particular proper regard to, full recognition of and respect for indigenous laws, customs and practices;

Operative paragraph 26

Indigenous peoples have the right (a) to participate fully at all levels of government, through representatives chosen by themselves, in decision-making about and implementation of all national and international matters which may affect their rights, lives and destinies; (b) to be involved, through appropriate procedures, determined in consultation with them, in devising laws or administrative measures that may affect them directly. States have the duty to obtain their free and informed consent before implementing such measures;

Operative paragraph 27

Indigenous peoples have the right to autonomy in matters relating to their own internal and local affairs, including education, information, mass media, culture, religion, health, housing, employment, social welfare in general, traditional and other economic and management activities, land and resources administration, environment and entry by non-members, and the environment, as well as internal taxation for financing these autonomous functions;

Operative paragraph 28

Indigenous peoples have the right to decide upon the structures of their autonomous institutions, to select the membership of such institutions according to their own procedures, and to determine the membership of the indigenous peoples concerned for these purposes; States have the duty to recognize and respect the integrity of such institutions and their memberships;

....

Operative paragraph 30

Indigenous peoples have the right to maintain and develop traditional contacts, relations and cooperation, including activities for economic, social, cultural and spiritual purposes between indigenous peoples across borders. States should adopt measures to facilitate such contacts;

....

Operative paragraph 34

These rights contained herein constitute the minimum standards for the survival and the well-being of the indigenous peoples of the world;

....

Operative paragraph 37

Indigenous peoples have the right to retain and develop their customary laws and legal systems where these are not incompatible with human rights and fundamental freedoms enshrined in international human rights instruments;

As can be seen from this excerpt from the draft declaration, the members of the Working Group have been attentive to the submissions of Indigenous peoples and have not been afraid to use relatively strong language to describe the rights of Indigenous peoples, including the use of the term "peoples" and "the right of self-determination".

It should however be noted that the tenor of the draft sees self-determination as being exercised within existing nation-states. Whether or not this is true, this is

certainly the position of the Metis Nation as articulated by the Metis National Council. Clearly, while we believe in and advocate the right of self-determination, we want to be able to express, implement and exercise our rights within a Canada that is reconstructed to accommodate us.

Given that we desire to remain within the Canadian Federation, while at the same time exercising our right of self-determination, it is clear that Canada as we now know it must undertake radical change. At the present time, our rights as an Aboriginal people are not being respected and have been suppressed by the Canadian state. This of course includes the right of self-government.

All that we basically have at this time is the privilege of incorporating our political organization and affiliates as non-profit organizations under provincial legislation. Of course, we can also incorporate institutions as profit corporations. In this respect we are no different than other political, service or business organizations or corporations. If our people are to enjoy meaningful participation within Canada as self-determining people, this will have to change.

While our ultimate objective is to enjoy our inherent right of self-government as a people, we nevertheless have to form linkages with the existing governments,

federal and provincial. In this connection, our people would very much want to be an integral part of the Canadian political and administrative systems, while at the same time carving out our own political and administrative space.

We feel that this can be accommodated by instituting Metis self-government over areas of jurisdiction that we feel will address our internal requirements, coupled with striking arrangements for our direct participation with both the federal and provincial governments.

With respect to the federal government, we have made presentations in the past which called for guaranteed Metis representation in the House of Commons and Senate. The method of selection of Metis representatives to those two institutions would have to be left to the Metis people. This could include appointments by a Metis national government, or perhaps by election.

We would also want to have Metis representation on all administrative bodies, including commissions, tribunals, and boards which have an impact on our lives.

We of course would want representation in the judicial systems, particularly in the appeals courts once we institute our own Metis judicial system.

With respect to the provincial government, we have indicated in the past that we would like guaranteed representation in the Legislature. Here again, the

representation could be decided by election or by appointment from the provincial Metis government or representative body. As with the federal government, we would want guaranteed representation on all administrative and judicial bodies.

This interaction with the other two orders of government would be desirable for us as we do not want to become marginalized or ghettoized by having Metis self-government operating in a vacuum. It is extremely important that our Metis governments work in partnership with the rest of Canada.

Self-government without land however is not a complete answer to the enjoyment of our people's right of self-determination. For our people to continue our existence and survival as an Aboriginal people and nation, land is a prerequisite. Land is essential because we are inextricably tied to the land: it sustains our spirits and bodies; it determines how our societies develop and operate based on available environmental and natural resources; and our socialization and governance flow from this intimate relationship. In essence, land is a natural right, inalienable in nature, which is essential for the continued vitality of the physical, spiritual, socio-economic and political life and survival of our people for generations to come.

For many of our people, a land base means a place to live. Securing such a land base would legitimize its resource use which is necessary to sustain a traditional

way of life. Essentially, a land base would provide a place for some of our people to live and prosper according to our own ways.

This is best exemplified by an excerpt from a presentation made by a delegation from Metis communities in Northern Saskatchewan to a Metis National Council General Assembly in 1986.

For over two hundred years now, the Metis of Northern Saskatchewan have lived in harmony with our land and its resources. We have made use of the land, the trees, the wild plants, the waters, the fish and the game - taking what we needed for our livelihood. During this time we built strong values, strong families and strong communities.

These communities, communities such as Ile a la Crosse, were not just a small patch of land defined by some bureaucrat who defined a set of village boundaries. No, until recently Ile a la Crosse was much more than that - it was much more than a few square miles of land. Ile a la Crosse was, and still is, all those things which go to make up a Northern Metis community - it includes the trap lines of our families - it includes the lakes and the fish which support our people - it includes the wild game which feeds our people - it includes the wild fruits which we harvest - it includes the wild rice which we harvest both commercially and for our own use - it includes the trees which we use to build our homes and which we also harvest commercially - and, most important, it includes the people and that spirit of the Metis community that can't really be described in words we learn in school.

The spirit, the community soul, that probably can only really be described in Cree (...). This is not past. It is true that in recent years the soul of Ile a la Crosse has been dimmed and the spirit of some of our people has been covered over - covered, but not lost.

We are fortunate, you see, because we have not been removed from our traditions for several generations - as has happened to many of our people who have lived in the cities of the south for several

generations. Many of us, who live in Northern Metis communities, still make our living in the traditional ways - and almost all of us remember the days when we had control of our own lives, the days when we used our resources for our needs and processed these resources in our own communities. Today most of us remember, today we understand.

But in two or three generations who will understand - if we don't regain control over our own lives? What will become of our people and our way of life, if governments are allowed to continue to take control of our traditional sources of livelihood, then give control of these resources to the big companies - the government power companies, the timber companies and the mining companies?

What I am trying to tell you about Ile a la Crosse and other Metis communities of Northern Saskatchewan? I guess the most important thing I am trying to help you understand is that we are still Metis communities - Metis communities with strong and deep roots in the Metis traditions and our way of life. We have not lost our roots and our goals must be seen as a continuation of our long-standing, traditional way of life.

In short, when the people of Northern Metis communities talk about our goals for the Constitutional negotiations we are not talking about fine-tuning a few government programs. What we are talking about is obtaining an agreement that fully respects our right to self-determination - our right to maintain a way of life which has served our people and communities well for many generations, though we expect that we may make adjustments to the economic base of our community - our right to make our own decisions, within our own community, about those matters which affect our daily lives - in a few words, the right to control our own futures, our own destiny.

That expressed need for a land base holds equally true for all Metis people and communities throughout the province, as well as the Metis homeland. Ideally, land of sufficient quantity and quality would be secured by our people.

It goes without saying of course, that our people would exercise self-government on lands that are returned to us. However, there will be many Metis who will choose to remain in non-Metis rural and urban communities. It is therefore necessary for those people to implement self-government off a land base, particularly in the urban areas. While self-government can best be undertaken on a land base, this does not mean that self-government off a land base should not also be pursued. As well, because self-government off a land base is a possibility, this should not be used as an excuse not to return lands to our people.

Finally, the best case scenario would see all of our rights entrenched in the Canadian Constitution. This would include the recognition of our land rights and the protection of lands returned to us, the recognition and implementation of the inherent right of self-government as well as the other rights articulated at past First Ministers Conferences (FMCs) on Canada's Constitution.

IV. The Constitutional Quest

Since the patriation of the Canadian Constitution in 1982, and beginning with the first FMC on Aboriginal Constitutional Matters in March 1983 a significant amount of time and resources have been spent on attempts to entrench the right of self-government. While this goal was almost achieved, it has fallen short of the mark. Nevertheless, the debate itself has proven helpful as the Canadian public and political leaders have become educated on the issue and do not feel so threatened by the prospect that Aboriginal peoples may become self-governing in the not too distant future.

For the Metis, the recognition of the right of self-government has proven more difficult than for Indian and Inuit peoples. This is primarily due to the lack of federal government interaction with the Metis in terms of land claims and legislated self-government arrangements. In fact the first expressions of the federal government vis-a-vis Metis at the 1983 FMC was that the Metis should be dealt with through enhanced programs and services, basically concentrating on the social and economic conditions of the Metis. As will be seen below, that original position has evolved dramatically.

A. Contingent v. Inherent Right.

In order to better understand the position taken by the Aboriginal peoples at the FMCs on Aboriginal Constitutional Matters, it is important to understand the difference between a contingent right of self-government and an inherent right of self-government.

As defined by Webster's Dictionary contingent means "dependent on or conditioned by something else". It is therefore safe to state that a contingent right of self-government is a right that is created. This can be by ordinary legislation or by the Constitution. Basically, the right does not exist until it is granted by a government. In the case of the FMCs in the 1980s, the federal and some provincial governments were willing to entrench in the Constitution a contingent right of self-government. In order for the right to be implemented and exercizable, there first had to be a negotiated agreement containing a declaratory clause, followed by ratification by the Legislatures and Parliament. If those hurdles could be achieved, then the negotiated jurisdiction or powers of self-government would be enforceable and have the protection of the Constitution.

A contingent right of self-government almost found its way into the Constitution in 1985, but was rejected by the Assembly of First Nations and the Inuit Tapirisat of Canada. The Metis National Council and the Native Council of Canada were

prepared to accept the amendment based on a commitment by the Prime Minister that the issue of Metis land would be addressed.

The fourth FMC on Aboriginal Constitutional Matters in 1987 also witnessed a willingness by most of the Premiers and the Prime Minister to entrench a contingent right. However, at this Conference all of the Aboriginal Organizations and several Premiers rejected the amendment. The Aboriginal peoples' representatives because it was too weak, and would settle for nothing less than an inherent right and the Premiers because they felt it gave the Aboriginal peoples too much.

According to Webster's Dictionary inherent means "an essential character of something; belonging by nature or settled habit". In this case, we can state that an inherent right is a right that inheres in a people and is not created by someone else. It is basically a gift from the Creator, something that you are born into. In this sense, it is a right that cannot be given or taken away from you.

The bottom line adopted at the 1987 FMC is that the Constitution of Canada can only recognize and protect what is already there, it cannot create the right. And definitely it cannot be allowed to create legal obstacles which would frustrate the implementation and enjoyment of the right.

This position was maintained over the intervening years between 1987 and 1992, when the Aboriginal peoples were once again invited to join the constitutional debate.

B. 1992, the year self-government was within Metis grasp.

With the failures of the 1980s constitutional process on Aboriginal constitutional matters and the failure of the Meech Lake Accord based on the Canada-Quebec constitutional talks between 1987 and 1990, a new round of constitutional discussions began in 1991. This began as a process to address the issues of Quebec which had given Canada an ultimatum on addressing their issues. The failure to deal with their issues meant that Quebec would seek a decision from its people as to whether they should remain in Canada or not.

Given this state of affairs in Canada, and the fact that several Premiers/Provinces wanted to deal with their issues, such as a Triple E Senate, it was felt that an attempt should be made to seek accomodation for all expressed interests. This process was assisted by the appointment of the Right Honourable Joe Clark as Constitutional Affairs Minister in 1991.

In the spring of 1992, although Aboriginal peoples were being consulted as of the summer of 1991, at a meeting of Ministers on the Constitution, through the

insistence of Premier Bob Rae of Ontario agreement was secured that Aboriginal peoples would become full and equal participants in that round of talks. It must be remembered that between 1987 and 1990, with the Meech Lake Accord and meetings, the Aboriginal peoples were excluded.

The period between March to October 1992 witnessed an intensive engagement of constitutional dialogue. A major part of that dialogue involved the rights of the Aboriginal peoples, including direct negotiation on Metis rights and issues. Meetings at the First Ministers, Ministers and Officials levels took place on a regular basis. Four working groups were also established, one dealing solely with Aboriginal issues, with the other three also addressing such issues as part of their overall work. A Task Force on Metis Issues was also established to address concerns brought forward by the Metis Nation, as represented by the Metis National Council.

At the political level of First Ministers, the outcome of this series of meetings was the Charlottetown Accord concluded in August 1992. Through this Accord, the aspirations of the principal actors were accommodated. Quebec was to get its distinct society, Alberta was to get its Triple E Senate, the Aboriginal peoples were to secure the inherent right of self-government and more specifically the

Metis were acquiring a clarification that s. 91(24) applied to all Aboriginal peoples, along with a Metis Nation Accord which supplemented the constitutional amendments.

Following the Charlottetown Accord, a series of meetings at the officials level took place to finalize the legal wording of the amendments, along with companion Accords, including the Metis Nation Accord. Of significance to this study are the amendments dealing with the right of self-government. They are significant as in our view, what was achievable at that time would have very adequately met our quest for self-government. There is now uncertainty that the right dynamics will be achieved to get back to where we left off.

The draft amendments in our view were an adequate recognition of our right of self-government and would have set a firm foundation upon which to rebuild our society. We would have accomplished securing the entrenchment of our inherent right of self-government, constituting one of the three orders of government in Canada. It also contained a contextual statement which described the scope of the governmental powers including the safeguarding and development of our languages, cultures, economies, identities, institutions, and traditions, along with developing, maintaining and strengthening our relationship with our lands, waters and environment.

35.1 (1) The Aboriginal peoples of Canada have the inherent right of self-government within Canada.

(2) The right referred to in subsection (1) shall be interpreted in a manner consistent with the recognition of the governments of the Aboriginal peoples of Canada as constituting one of three orders of government in Canada.

(3) The exercise of the right referred to in subsection (1) includes the authority of duly constituted legislative bodies of the Aboriginal peoples, each within its own jurisdiction,

(a) to safeguard and develop their languages, cultures, economies, identities, institutions and traditions, and

(b) to develop, maintain and strengthen their relationship with their lands, waters and environment, so as to determine and control their development as peoples according to their own values and priorities and to ensure the integrity of their societies.

Coupled with this proposed amendment was an amendment which set out a commitment to negotiate as well as a process of negotiation. This amendment also provided for agreements which would allow the participation of all residents of the region in bodies or institutions to which an agreement applies.

35.2 (1) The government of Canada, the provincial and territorial governments and the Aboriginal peoples of Canada, including the Indian, Inuit and Metis peoples of Canada, in the various regions and communities of Canada shall negotiate in good faith the implementation of the right of self-government, including issues of:

(a) jurisdiction,

(b) land and resources, and

(c) economic and fiscal arrangements,

with the objective of concluding agreements elaborating relationships between governments of Aboriginal peoples and the government of Canada and provincial or territorial governments.

(2) Negotiations referred to in subsection (1) may be initiated only by the representatives or governments of the Aboriginal peoples concerned, and shall, unless otherwise agreed by the parties to the negotiations, be conducted in accordance with the process for negotiations outlined in an accord entered into by the government of Canada, the provincial and territorial governments and representatives of the Aboriginal peoples.

....

(4) An agreement negotiated under this section may provide for bodies or institutions of self-government that are open to the participation of all residents of the region to which the agreement relates as determined by the agreement.

(5) The parties to negotiations referred to in subsection (1) shall have regard to the different circumstances of the various Aboriginal peoples of Canada.

One of the major deficiencies of the set of proposed amendments was the absence of a provision dealing with the financing of self-government arrangements. This matter, along with other unresolved issues were addressed in a companion political accord, which also set out the process for negotiation as contained in the proposed section 35.1(2) amendment above.

The government parties to the negotiations could not be convinced to include a financing of Aboriginal governments provision in the Constitution. However, they did recognize the need for some kind of financial basis for the running of Aboriginal governments. One of the considerations to be taken into account was the ability of Aboriginal governments to raise their own revenues, including

revenues derived from their land and resource base. In this connection, there was also a reference in the political accord to the potential of supplying land to assist Aboriginal governments in raising their own revenues.

Part 3 Financing of Aboriginal Self-government Arrangements

3.1 (b) in the context of agreements relating to self-government, Parliament and the government of Canada, and the legislatures and the governments of the provinces and the assemblies and governments of the territories are committed to the principle of providing the governments of Aboriginal peoples with fiscal or other resources, such as land, to assist those governments:

(i) to govern their own affairs, and;

(ii) to meet the commitments referred to in paragraph (a) taking into account the levels of services provided to other Canadians in the vicinity and the fiscal capacity of an aboriginal government to raise revenues from its own sources.

These provisions form the main elements of the proposed amendments and companion political accord. Unfortunately, while the elected political leaders of the Aboriginal peoples, the government of Canada and the provinces and territories were agreed on proceeding with these changes, the people of Canada by the October 1992 Referendum signified that they were opposed to the proposed changes. Because of the numerous proposed amendments, it is not certain how many people were opposed to the Aboriginal amendments. Most of the vocal opponents to the Charlottetown Accord stated that they supported the Aboriginal amendments, but were opposed to other amendments.

C. Metis Nation Accord

As mentioned earlier, the Metis nation was able to negotiate a draft accord which helped pave the way to getting the federal government to agree to an amendment clarifying that section 91(24) applied to all Aboriginal peoples. Besides accomplishing this, the Accord also provided for the undertaking of an enumeration and the establishment of a Metis registry. This is critical as there is no accurate census as to the number of Metis in Canada, as well as no mechanism to maintain on-going data once an enumeration does take place.

Another significant aspect of the Accord was the willingness of the government parties to agree to land and resources for Metis as part of the self-government negotiations. In this connection, the Metis National Council attempted in a vigorous manner to include in the Constitution a reference to a right of the Metis to a land and resource base, as well as a reference to negotiate a Metis land and resource base in the commitment to negotiate clause. This was not agreed to by the government parties, as well as by some of the Indian leaders. The most that we succeeded in getting in the section 35.2(1) commitment to negotiate clause was a direct reference to the Metis as part of the parties to the negotiations.

The next best thing of course was to get a commitment in the Metis Nation Accord, which read together with the proposed constitutional amendments formed

the basis of a real opportunity for us to realize a land and resource base as part of our self-government arrangements.

4. Land and Resources

Within the context of self-government negotiations,

a) Canada and the Provinces agree, where appropriate, to provide access to lands and resources to Metis and Metis self-governing institutions;

b) Where land is to be provided, Canada and the Provinces, ..., agree to make available their fair share of Crown lands for transfer to Metis self-governing institutions;

....

d) Canada and the Provinces agree to enter into discussions with representatives of the Metis Nation on the establishment of a land negotiation process.

The Metis Nation Accord also dealt with the devolution of programs and services to Metis self-governing institutions, as well as the financing of such institutions.

6. Devolution

In self-government negotiations, Canada and the Provinces will negotiate the transfer to Metis self-governing institutions the portion of aboriginal programs and services currently available to Metis.

7. Cost of Institutions

Canada agrees to provide a substantial portion of the direct costs of Metis self-governing institutions established as a result of self-government agreements. The Provinces and the Metis Nation will provide the remaining portion of the costs. The Metis Nation share of the remaining

portion of the cost will be determined in self-government negotiations taking into account the capacity of Metis governments to raise revenue from their own sources.

8. Net Incremental Program and Delivery Costs

Canada agrees to provide its share of the net incremental program and delivery costs deriving from self-government agreements. The Provinces and the Metis Nation will provide the remaining portion of the costs. The Metis Nation share of the remaining portion of the cost will be determined in self-government negotiations taking into account the capacity of Metis governments to raise revenue from their own sources.

9. Transfer Payments

Within the context of self-government negotiations,

a) Canada and the Provinces agree to provide Metis self-governing institutions with transfer payments to enable them to establish and deliver programs and services to Metis.

b) These transfer payments will assist Metis self-governing institutions to establish similar types of programs and services as those enjoyed by other Aboriginal peoples.

As can be seen from this, had the referendum been successful, the above amendments, coupled with the Metis Nation Accord would have placed self-government for our people within our reach. The forums would have been in place. The inherent right would have been constitutionalized. A land claims process would have been afforded us. However, this did not happen. We have to await our next opportunity to try to arrive where we were in 1992. In the meantime, we have to explore other potential avenues.

V. Interim Processes

Recently, the Metis Society of Saskatchewan (MSS) entered into two major political agreements. Both may be viewed as significant interim steps towards constitutionally recognized Metis self-government. Each sets out a specific process for engaging in constructive dialogue with either or both the provincial and federal governments regarding matters of vital concern to our people.

A. Tripartite Process

The Tripartite Process Framework Agreement [Appendix C], signed in February of 1993 by the MSS, the Government of Canada, and the Government of Saskatchewan has several important tasks to accomplish during its five year lifespan. Basically, the goals are to protect the unique identity of our people while, at the same time, transferring to the Metis greater control of relevant provincial and federal government institutions, programs and services. The Agreement's Mission Statement also recognizes that these transfers cannot be achieved effectively unless more financial and human resources are made available to strengthen existing Metis administrative structures. Identifying and securing these resources for application by Metis institutions is viewed as a crucial ingredient for the success of the Agreement.

The process for reaching the desired goals is fairly straightforward. A Negotiating Committee comprised of representatives of the three parties has responsibility for managing the overall direction and work related to the Agreement. The Metis side is expected to "drive" the process or, in other words, to prioritize issues and maintain the momentum to achieve meaningful results. The Committee determines agendas and timetables, oversees the development of any necessary research and documentation, and, as its name implies, negotiates specific agreements within the Tripartite mandate.

To carry out much of the background preparation, including any technical assistance, leading up to the negotiation stage, the Committee also has responsibility for establishing and managing subcommittees when needed. As of mid-1993, the following six subcommittees have been formed, each of which includes representatives from the MSS and the federal and provincial governments:

1. Economic development and housing
2. Education, training and employment
3. Land and resources
4. Metis data base, enumeration, and registry
5. Justice and social services
6. Health

These subcommittees meet on a regular basis and focus on the completion of yearly workplan items which may include the analysis of existing federal, provincial and MSS policies, jurisdictional and regulatory issues, and the transfer of specific programs and services to MSS affiliates. Essentially, the primary function of the subcommittees is to respond to the Negotiating Committee's requests for recommendations, including appropriate options, regarding policies and programs. In carrying out its workplan, each subcommittee may choose to:

- a) review existing policy and program models,
- b) undertake research regarding new or alternative models.

Input from Metis communities is desirable in either case.

While it is perhaps premature to evaluate the Agreement's achievements at the midway point of its first year, it is fair to say that general progress is being made, but with some troubling qualifications. Representatives on the Negotiating Committee and the various subcommittees have now established good working relationships. In most of the agenda topic areas under consideration there appears to be a willingness to move towards Metis goals, although perhaps too slowly in some cases. With sufficient sincerity, effort, and resources, it should be possible to build momentum.

Therein lies a basic problem, however. Sincerity and effort, no matter how abundant, cannot compensate for inadequate resources. Funding for the Tripartite Process, particularly to support Metis research and development initiatives, has not been forthcoming in the amounts required. Until these financial resources become available, it is unrealistic to expect that the Agreement's objectives will be met. Moreover, this restrained fiscal situation raises serious questions among Metis as to whether the provincial and federal governments are acting in good faith with respect to the process itself. The delays and uncertainties experienced thus far concerning funding decisions strikes many Metis as a short-sighted, unnecessary obstacle on the path towards self-government.

What is also worrisome about this situation is the potential lack of follow-through once specific agreements or settlements have been negotiated. Any transfer to the Metis of control over existing programs and services will require certain administrative expenditures. So, too, in the case of land transfers or resource management and development agreements, there will be various costs involved. Until we as a Metis Nation have the legal and practical capability of generating our own revenues through taxation or other means, these expenditures will have to be covered by the federal and Provincial governments. It remains to be seen

whether these support payments will be forthcoming, but the recent difficulty with securing funding for the Tripartite Process is not a positive sign of what the future may hold.

To complicate matters further, as the Tripartite Process proceeds during the next five years, some aspects of the situation will likely change. New issues may emerge from the discussions or as a result of the restructuring and self-government initiatives undertaken by the MSS. In addition, major restructuring within federal and provincial governments may create additional problems in maintaining continuity within the process. Finally, there is also, of course, the question of whether the political will to engage constructively in the negotiations will endure throughout the five year period. Whatever happens, Metis participants hope that this Tripartite Process will not fail as an earlier version did in 1987. Too much time has already passed in attempting to achieve our self-government goals.

B. Bilateral Process

The second interim process, a Bilateral Process Agreement between the MSS and the Government of Saskatchewan, was signed in June of 1993. This Agreement [Appendix D] is intended to enable the two parties to address a wide range of policy and planning issues. Meetings and decisions resulting from the process are

also expected to clarify the extent of federal jurisdiction for Metis people in the province. Although some overlap is probably inevitable, the two Agreements - Tripartite and Bilateral - are designed to complement one another. In certain instances, matters raised within the Bilateral discussions may be referred to the Tripartite committees for further attention. By the same token, issues which cannot be resolved through Tripartite may be placed on the Bilateral agenda.

The framework of the Bilateral Process includes several interrelated dimensions. A leaders' forum with the MSS President and the Provincial Premier will meet regularly. A Tier One Committee composed of key ministers from both parties will hold quarterly meetings. This Committee has responsibility for pursuing issues identified within the leaders' forum and will also develop strategies concerning the federal jurisdiction question. Tier Two Committees, which will include Deputy Ministers, other senior officials, and technical staff from the province and the MSS will meet as required to carry out directions stemming from the Tier One decisions.

It is much too early to assess the success of the Bilateral Agreement. The first leaders' forum has taken place and was judged to be worthwhile by the participants. As with the Tripartite Agreement, however, the merits of such process agreements will become apparent only after substantive decisions affecting Metis people are made and acted upon. Unless the provincial and federal

governments make the political and financial commitments to bring about Metis objectives, little will have been accomplished.

This is not to suggest that either Agreement has no practical value. Both the Tripartite and Bilateral Agreements are important to the MSS as interim steps towards our self-government goals. They allow us to continue building and, where appropriate, re-shape our existing administrative infrastructure. At the conclusion of these Agreements, the MSS will then be fully prepared for a more comprehensive transfer of control over relevant institutions, programs and services as well as the funding arrangements needed to manage these self-government structures. Neither of the two Agreements is, however, a substitute for Constitutional change. Until this Constitutional quest on the part of the Metis is fulfilled (as described in Section IV of this report), a process that may include the revival of key elements of the Metis Nation Accord, our self-government aspirations will not be completely satisfied.

VI. Practical measures that can be undertaken or are currently underway.

While waiting for the multilateral process on constitutional renewal to reopen, we have to explore alternative means to achieve Metis self-government. This of course can be pursued through the existing processes outlined above. While taking advantage of the tripartite process involving both the federal government and the province of Saskatchewan and the bilateral process with the province, we have to be able to implement concrete or meaningful self-government structures and authorities. The following reflects some of the potential measures that can be undertaken or continued in reaching these goals.

A. Existing infrastructure.

As seen earlier, the Metis within Saskatchewan have been politically active over the past century, with various different political organizations in place. Since the late 1960s, the Organization has been operating under provincial legislation dealing with non-profit corporations.

While the Organization played a vital role as a political lobbyist, various programs for provision of services to our people were also put in place. In the late 1970s it was decided that in order to better provide such services to our people and to decentralize some of the decision-making, a restructuring had to take place. This

decision witnessed the move from providing programs and services through departments of the Metis Society to the creation of delivery mechanisms which were semi-autonomous.

By adopting this approach we now deliver all programs and services through separately incorporated institutions which have their own governing structures. Depending on the resources available and the service provided, the Boards range in varying sizes. One common element however, is that the Affiliates are owned by the Metis of Saskatchewan as represented by the Metis Society.

While this has sometimes caused some minor problems between the political and administrative functions between the Provincial Metis Council and the Affiliates, it has proven to be a valuable exercise in the transition from solely being a political/lobby organization to providing services through an institutional infrastructure which now provides a framework for Metis self-government within this province. We are now at a stage where further restructuring is not only desirable, but will also accord with our internal self-government growth.

B. Internal restructuring.

Based on the positive developments of the Charlottetown and the Metis Nation Accords, following the referendum in October 1992, the Metis Society decided that it was time to take Metis self-government a step further. Based on this decision, a Self-Government and Restructuring Committee was established by the Provincial Metis Council. The Committee is composed of eight members, including representation from the Provincial Metis Council, Metis Senate of Elders, Metis Women of Saskatchewan and Metis Youth.

The mandate of the Committee is to consult the Metis people within Saskatchewan with respect to implementing Metis self-government within the province. It has been agreed that the starting point for self-government is based on building what we currently have in place. This includes the restructuring of the Metis Society of Saskatchewan, both politically and administratively and enhancing the role and accountability of the Affiliates. It has also been decided that this restructuring and implementation of self-government will take place over a five year period. This not only gives a realistic timeframe for action, it also coincides with the tripartite agreement which is a five year process. The tripartite process also has "Metis self-management structures" as an agenda item. As can be seen, the two processes can be complimentary.

This self-government/restructuring process began in earnest with a provincial workshop entitled "Metis Self-government Nation Building: Step One" held on March 17, 18 & 19, 1993. This workshop brought together representatives from the Provincial Metis Council, Metis Senate of Elders, Metis Women of Saskatchewan, Metis Youth, Local Communities and MSS Affiliates. The purpose of the workshop was to gather together the main decision makers in the political and administrative infrastructure of the MSS and Affiliates in order to adopt a plan of action for the implementation of the five year process.

Based on the outcome of this workshop, including the conclusions and recommendations reached, a series of workshops were held at the regional level in order to consult our members at the community level. The results of these workshops were summarized, and coupled with the March workshop results formed the basis for a two day Self-Government Conference at Batoche on July 22 - 23, 1993. This Conference was composed of the elected leadership of the Metis Society and included the Local Presidents, Provincial Metis Council, Metis Senate of Elders, Metis Women of Saskatchewan and Metis Youth. Final decisions were made by the elected Local Presidents and Provincial Metis Council members.

The decisions made at the Conference are currently being analysed with a view to developing Stage One positions which will be brought forward to the Annual General Assembly of the MSS for adoption. The Assembly which will be held in late 1993 will witness the end of Stage One.

Some of the major areas discussed during the March - July process are summarized below to give a general idea of the direction that our people are going and the issues they feel important in terms of self-government.

The major debate has addressed the issues of decentralization, accountability, streamlining and greater involvement of the Locals in the decision-making and running of the Organization. In order to accomplish this objective the consensus currently developing revolves around a restructuring which it is believed will give the Locals a greater role in administering the political and administrative affairs of the Organization.

It is being proposed that a Metis Legislative Assembly be created, composed of the Local Presidents and the Provincial Metis Council. This Legislative Assembly would meet up to four times a year, and replace the Annual General Assembly. It is felt that this will give the Locals a direct and on-going involvement, thereby

encouraging them to become more active. At the same time, the elected Regional and Provincial leadership will be under greater scrutiny and thereby become more accountable to the membership.

While the Legislative Assembly would carry out a number of functions, it would serve as a forum to debate and adopt Acts which would govern our internal relationships, including the relationship between the political and administrative components of Metis government. In this connection, legislation could be adopted for each of our existing Affiliates and future institutions. It was also suggested that a Metis Citizenship Act be adopted to deal with the whole issue of membership.

In terms of casting votes in the Assembly, the general sentiment is that each delegate/member would have one vote. There is some concern, however, that Locals with nine members would have the same voting power as Locals with membership in excess of 500. One potential is to adopt weighted voting, or to create more Locals particularly in the large urban centers. This issue remains to be resolved.

It is further envisaged that the existing Provincial Metis Council would form the Cabinet of the Metis government. The current size is fifteen, but this could change depending on whether a regional boundaries redistribution takes place. As

noted above, it is possible that the three large urban centers would become separate regions. The general sentiment is that if regional restructuring is to take place, that it take into account regional parity.

In any event, the Cabinet would be responsible for various ministries or portfolios such as education, health, justice, housing, economic development, land and resources, communications, social services and sports and recreation. In appointing the various portfolios, gender equity and fair geographic representation would be taken into account, as well as the qualifications and experience necessary to carry out the duties required by each portfolio.

Members of Cabinet would also be charged with responsibility for the overall direction of the respective Affiliates. In this connection, it is recommended that the Legislative Assembly enact separate pieces of legislation with respect to each Affiliate. In this way our Locals have direct input into the overall administration of the Affiliates, as well as having a mechanism for dealing with reports at each Legislative Assembly. Affiliate accountability to the Locals will be accommodated through that process.

To make the Legislative Assembly more democratic and representative, it has also been suggested that each of our Local Presidents be elected by the ballot box system. It is felt that if a Legislative Assembly is instituted that this will give an

added incentive for community members to seek election in their Local. In this connection, it was also expressed that while gender equity must be promoted, that there cannot be any guaranteed seats based on gender. It was felt that voters should be free to decide who they would like to elect as their representatives.

Many also expressed the need for land and resources if they are to have meaningful self-government. Many felt that land is a necessary condition or prerequisite for spiritual, cultural, social and economic survival. In this connection, there was a sentiment expressed that the Metis Society should consider initiating court action seeking a declaration that Metis still have outstanding land rights.

With respect to resources, it was stated that in order to have viable self-government, economic development was a key ingredient. In this connection, it was felt that securing land and resources, or at least access to land and resources, would enable Metis to establish a financial base to help offset some of the costs of self-governing institutions. This could include direct resource development, co-management, joint ventures, resource revenue sharing and royalties.

Substantial discussion also took place with respect to defining the role of the Elders Senate. At the current time there are no set rules or guidelines and it was felt that, through the restructuring process, the role and responsibilities of the

Senate should be clearly spelled out. One suggestion was that the Senate should replace the Metis Elections Council, or at least act as an appeals body with respect to any conflicts. It was also felt that the Senate should act as an appeals forum for membership eligibility disputes.

There was also general consensus that with a move to self-government the Organization should develop conflict of interest guidelines and a code of ethics. With the growth experienced to date, and the potential for further expansion it was felt that the potential for conflict was more real and that safeguards for elected representatives should be put in place. A code of ethics was also deemed necessary to provide elected representatives and the general membership with criteria by which to gauge actions which might bring the Organization's reputation into question. In this connection, it was also recommended that a spiritual guidance committee be established to deal with healing and to help resolve conflicts within the Organization.

Finally, in terms of self-government strong sentiment was expressed that as part of Metis governance we should establish our own Metis labour force, as well as Metis unions. At the current time, unions are getting involved in several of our Affiliates. This is putting constraints on our capacity to develop our institutions

as Metis entities. Under Metis governance, provision can be made to accommodate collective bargaining and unionization but only under Metis legislation.

C. Devolution of programs and services

Although more correctly characterized as self-management or self-administration, as an interim measure, the devolution of programs and services to Metis institutions is desirable. In this context, as seen above, the Metis Nation Accord would have provided for this, and still can if it is proceeded with as suggested by the Metis National Council. The current tripartite and bilateral processes can also be used to accomplish this.

One of the better examples we can use for this is the current arrangement between the federal government and the MSS vis-a-vis training and employment. Over the past two years, the Metis of this province have been substantially involved in this area through a partnership arrangement with Employment and Immigration Canada (EIC). A global budget allocation has been made to the MSS Pathways Secretariat, which has its own infrastructure and delivers the program (a more detailed description of this service is contained in the latter part of this section).

There are a number of other federal programs that can be devolved to Metis self-governing institutions, with the Canadian Aboriginal Economic Development Strategy being a prime candidate. At the current time MSS has an Affiliate which has accessed programming dollars from CAEDS, but we feel that we can do a better job if that portion of the program funds identified for Metis in Saskatchewan are devolved to our economic development affiliate.

Dialogue with the province is also taking place with respect to devolution of programs and services to our people. This has been expressed as creating a partnership with Metis institutions (public authorities). It is envisaged that these institutions (which are basically existing Affiliates and the creation of others as necessary) will begin delivering services in partnership with existing provincial agencies, with a view to becoming fully independent over a period of time.

An example which has been used is that of Metis child and family services. It is suggested that MSS and the Department of Social Services would act as partners in a Metis Child and Family Institution which would be charged with carrying out all functions relating to Metis social services. The financing necessary would be devolved from the Department to the Institution. The work of the Institution would be jointly carried out by Metis employees and Departmental employees. Once our people feel confident enough to run the system on our own, the partnership would be dissolved and the Departmental staff would return to their

own agency. The financing required to run Metis social services would continue to be provided by the province.

At this time discussion is on-going with the province on this potential development. The major forum for carrying this dialogue further is the newly signed bilateral agreement between the MSS and the province. The areas targeted by the province for potential agreements with Metis authorities include child welfare, justice, housing, economic development, education and health.

D. Co-management

While the above may sound like co-management, the major difference is that with devolution, the ultimate result will be the total control of the Metis over the programs and services being provided. With co-management, control will inevitably remain with the government or agencies the arrangement is struck with.

To date no co-management arrangements are in place, although for the past two years an arrangement has been discussed with Parks Canada respecting the co-management of the Batoche Historical Site. It appears that some progress will be made on this matter over the next several months.

The major emphasis for co-management is unfolding in our tripartite process, particularly as it relates to renewable resources. As many of our people are involved in commercial fishing and trapping, and still rely to a great degree on hunting, it is important that we have a direct say on the development of policies, laws and regulations, implementation of programs and enforcement. This includes the setting of fisheries limits on lakes, for both commercial and sports purposes, closures of lakes, stocking of lakes and deciding on net-mesh size. It also includes the regulation of the trapping seasons, animal pelts which can be taken and the type of traps which can be used. Generally, this would apply to all traditional resource use activities.

Another major area is the regulation and management of the forestry industry. Large scale forest activities, such as clear cutting have a dramatic impact on traditional resource use and can be very disruptive of such activities and destructive of the natural environment. Because of the clash of uses, it is imperative that Metis trappers/resource users have a direct role in regulating and monitoring the use of the forests.

E. Participation in non-Metis institutions.

While building up our own capacity to be involved in self-government, it is equally important that we continue to be involved in life around us. Even when we

achieve our inherent right to self-government as one of three orders of government, sovereign within our own sphere of jurisdiction, we must not become separate or isolated from the other two orders of government and the public generally. In addition, because of our current situation of lacking a land base, and with many of our people living in urban centres, it will still be necessary to make arrangements for these Metis to be involved in the urban governments.

As a consequence, it is not too soon to begin involving ourselves directly with existing institutions, while not foregoing our end objective of realizing full self-government. To begin with, current reform of Parliament should ensure that there is guaranteed representation for our people in the House of Commons and Senate. If we expect to have viable self-government within Canada we have to be intimately involved in the major governing bodies which may have a negative impact on our governments. More importantly, we have to be in a position of being well placed so that we are fully aware of developments which also affect us and where we can be in a position to inform Parliamentarians of the possible implications on us of their proposed actions.

The same holds true with respect to the legislative assemblies in the provinces and territory which covers our homeland. As a consequence, we need to have guaranteed representation in the legislature. This of course, would include full participation, such as the right to vote.

This representation would not solely be limited to guaranteed representation in Parliament and the legislatures, it would also apply to appointments to government agencies, boards, commissions and so forth. It is extremely important that we not only be involved in the political arenas, but the administrative as well.

With respect to the urban and rural areas, it is also important that we have involvement in their governments, especially where numbers warrant and self-government on a land base is not possible. This must also be extended to representation on school boards, police commissions and other bodies which have an impact on our people.

F. Metis trust.

In order to be able to build our self-governing capacity and negotiate meaningfully the evolvement of institutions of self-government and/or our enhanced role within the federal and provincial infrastructures and generally to improve the circumstances of our people, we must be able to have finances to draw upon. One of the potential ways to accomplish this is through a trust which could be established for a period of twenty-five years containing provisions for extension, renewal and amendments.

While the trust could be used to cover a wide range of activities, a better focus would be to limit it to certain key areas which would help our people move towards self-government and self-sufficiency. As such, the trust could have three basic functions: education and training, economic development and community development.

It is proposed that the trust would receive assets from the provincial government. The assets would consist of several forms: lands and real estate, shares in crown corporations, certain existing program funds and targeted revenue sharing from certain types of resource activities. It is also proposed that the trust could seek similar federal participation.

The trust would be directed by people who have both the confidence and support of our people and the vision and abilities to wisely manage and direct the affairs of what would become a large asset based trust with considerable annual cash flow. The Trustees could be drawn from Metis Elders, Metis business people and perhaps even non-Metis professionals selected by our people.

Essentially, the Metis Trust would act as an overall vehicle to hold and allocate assets provided to it by governments for the benefit and development of our

people. Incorporated as a trust under provincial legislation, the Trust would make allocations of both income and assets to specific beneficiaries according to predetermined trust conditions.

The three potential components could be modeled on the following:

Education Component: Provincial in scope. The parties acknowledge that the best long run prospect for future individual, family and community development is a good education and the creation of employable skills. The Gabriel Dumont Institute, Dumont Technical Institute and Pathways Secretariat are MSS institutions designed to address these opportunities within a Metis controlled and guided framework. It is proposed that certain of the assets and cash flow from the Metis Trust would be channeled to those institutions to permit increased training and education to take place. The land and assets would form an endowment, with specific rules developed to determine the rate of capital depletion.

Economic Component: Provincial in scope. This is a proposal to develop a comprehensive framework to identify opportunities, support projects and facilitate funding to economic activities ranging from family business to partnerships to participating in larger joint venture resource development projects. It is proposed that a program be developed in co-operation with provincial government where some of the current economic and employment initiatives of the province be

transferred to the Trust. The objective would be to support a combination of individually owned businesses, individual shareholder owners and joint-venture partnership arrangements as well as employment initiatives.

Community Land Component: Primarily northern in scope, this component would transfer northern lands which the Trust receives from the provincial government to the control of northern local Trusts composed of Metis Locals and northern local governments for distribution to northerner private ownership. The revenues such land sales might obtain would represent an important source of development capital to communities. The Trust would act as an agent for developments, allocating land to local communities against certain established criteria, including the provision for maintaining local ownership.

G. Community level developments.

One of the major initiatives of the Metis Society is to foster decentralization to the community and regional levels. Part of this initiative is to get the communities more involved in the process of achieving self-government. This is not an easy task as the vast majority of our communities do not possess the financial resources necessary to carry out such an undertaking. Nevertheless, the Metis Society insists on moving forward with a "bottom-up" approach.

With this in mind, the Metis community of Pinehouse invited the Metis Society to a one day working meeting on self-government. This meeting took place on May 26, 1993. The leadership of the Metis Society along with representatives of its Affiliates met with the community for the one day session with the two sides sharing information. The MSS and Affiliate representatives explained what was currently in place, including the tripartite process and the then pending bilateral agreement with the province. The community leadership (the Mayor and Council of the community and the MSS Local leadership) informed the MSS as to what they would like to see develop.

One of the main points emphasized was the need to involve the communities in the development of any self-government initiatives. The community as a whole wished to be involved in the process and requested the assistance of the MSS to enable it to move forward with Metis self-government and enhancing its current land base which is currently a designated municipal boundary just barely surrounding the community. The community leadership had been addressing this issue for some time and expressed the position that there was no need for two separate bodies in the community.

The Metis Society Local of course is the basic unit of the Metis Society of Saskatchewan and represents the political and administrative interests of their community at Metis Society functions and institutions. On the other hand, the

Town Council is provided for under provincial legislation and its members are elected every three years. The leadership of both bodies are Metis, and both participate in the functions of the two bodies.

The community representatives expressed the desire to negotiate with the province a single body or infrastructure which will represent the people of that community. While not working out the exact details, they suggested that provincial legislation should be amended in order to allow for Metis self-government in their community. In terms of filling the self-government seats and continuing interaction with the Metis Society, it was suggested that the proposed legislation make it clear that Metis Society Local representation would be identified as being part of the local government body.

While not exactly certain as to the specifics, general agreement was concluded that this approach would be explored in the tripartite process and that the MSS would work closely with the Local and Town Council to see what can be arranged.

H. Regional level developments.

Discussion has also taken place about the possibility of looking at regionally based Metis self-government. In one case dealing with northwestern Saskatchewan there are eight to ten Metis communities which could be encompassed by a

regional government. This regional government could assume certain areas of jurisdiction for the total region such as land and resource management, fire suppression control, highways, health, education, justice and economic development. The local communities could deal with matters of a more local nature, while at the same time dealing with some of the regional concerns on a more localized basis.

There is also some discussion that regional or local Metis self-government could take place in the larger urban centers, such as Regina. In this case, the Metis community in the urban center would negotiate certain areas of jurisdiction which they felt is needed for their constituents. This could include economic development, education, training and employment, social services, justice, health, housing and so on. The form that this self-government would take is of course different than in northwestern Saskatchewan where the Metis form the majority of the population.

These discussions nevertheless indicate that our people are serious about pursuing self-government and would like to see some forms of self-government emerging. While a lot more work is necessary to explore the feasibility of such initiatives, the aspirations and dedication of our people to proceed in that direction are clearly evident. With this in focus, the matter will be pursued in the tripartite and bilateral processes.

I. Legislative provisions.

In order to implement some of the above initiatives, new legislation will have to be enacted, or existing legislation amended. As a starting point, the Metis Society would like to move from under the Non-Profit Corporations Act to an Act specifically legislated to provide for the activities and legal existence of the Organization. This it is suggested can be done, as other Organizations such as doctors and lawyers have separate legislation.

In addition, if developments are to take place with respect to the Pinehouse initiative, amendments will have to take place with respect to The Northern Municipalities Act. The same will have to be done to provide for regional or urban Metis self-government, taking into account The Urban Municipality Act, 1984.

Legislative provisions would also have to be made to accommodate guaranteed Metis representation in Parliament and the legislatures, along with Metis representation in the administrative and judicial infrastructures of the federal and provincial governments.

One example of legislative amendment pursued by the Metis Society this year relates to health. The province has recently enacted legislation to implement its wellness plan (The Health Districts Act). The province is divided into a number of

regions which will be responsible for health care within their respective regions. An attempt was made by the Metis Society to have a separate region allocated for the Metis on a province wide basis. This would have been a special arrangement covering certain aspects of health care, while interacting with the other regional health authorities on matters not covered under the Metis health authority mandate. For example, the running of hospitals. This however was not agreed to, but nevertheless, the Metis Society continues to lobby for legislative amendment which provides some form of accomodation of our people in the health care system in the province.

The Metis Society is also exploring the possibility of the province enacting a Metis Act which will go beyond just providing a legal basis for the existence of the Organization and its mandate. Legislation similar in nature as that currently in place in Alberta could serve as a starting point.

It should be noted that such legislative initiatives can take place under the existing constitutional framework. One of the difficulties however may be the view of the province that legislating for Metis is beyond their jurisdictional authority based on section 91(24) of the Constitution Act, 1867. While this issue remains an uncertainty, and as an interim measure, the province should proceed as if they have the legislative competence in the same way that Alberta did in the 1930s.

Coupled with the passing of such an Act or Acts, the province should attempt to convince the federal government to look at a section 43 approach in amending the Saskatchewan Act. Section 43 of the Constitution Act, 1982 allows an amendment to the Constitution where a subject matter affects one or more but not all provinces and where those provinces and the federal government endorse such amendments. In this case the Metis Act would only affect the Metis within Saskatchewan, so the province and the federal government should be able to amend the Saskatchewan Act, which forms part of the Constitution of Canada.

In any event, if there is doubt as to the legitimacy of provincial legislation, once section 91(24) is resolved in favour of our people as was the case under the Charlottetown Accord, a specific constitutional provision can be put in place to safeguard the provincial legislation.

J. Examples of implementation of self-government through MSS institutional initiatives

Previous sections of this Report have described the work of the MSS and its affiliates in carrying out programs and services for our people in Saskatchewan. Virtually since its inception, the MSS has devoted considerable time and resources towards building a viable institutional infrastructure. What now exists is the

product of many years of dedicated efforts on the part of Metis individuals and communities throughout the province, often in the face of considerable obstacles.

Taken as a whole, these initiatives may be viewed as a relatively successful achievement. We have accomplished a great deal in this struggle to protect and strengthen our political, social, and cultural values. In response to the direction offered through our political decision-making process, our affiliates identify and develop opportunities for Metis people. They also, in some cases, establish working relationships with the non-Metis community and mainstream economic, social, and cultural institutions to address matters of mutual concern. In short, our affiliates have been functioning as the administrative branch of the Metis Government in Saskatchewan. Their development plans, as briefly outlined in the following discussion, demonstrate the scope and direction of how self-government is, or could be, implemented.

i) Economic Development

Metis individuals and communities have an extensive history in the economic development of the province, not only in terms of our participation in traditional resource industries, but in other sectors as well. In recent times, we have attempted to build up our economic infrastructure in several ways, including the provision of education and training for Metis people as well as the activities carried out by the Sasknative Economic Development Corporation (SNEDCO), a Metis owned financial and investment corporation. Begun in 1987 with a \$5 million capital grant from the federal government, SNEDCO has managed to provide, despite chronic undercapitalization, commercial and business loans to Metis entrepreneurs. In addition, the Corporation's business advisory division has guided clients in the preparation of proposals, management strategies, and the assessment of financial programs, among other services.

SNEDCO has and continues to play an important role in meeting Metis economic goals. But there are limits to what this Corporation can accomplish. We are now prepared to take the next steps. Fundamental to the Metis self-government framework is the implementation of an effective, comprehensive economic development plan. We have prepared this strategy taking into account the political and economic climate of the province. Since taking office in the fall of 1991, the Saskatchewan government has made a concerted effort to inform all

citizens and interest groups about the seriousness of the provincial deficit. Few would question the extent of the fiscal problems facing all residents during the foreseeable future. What should always be kept in mind, however, is that the burden of economic difficulty, past and present, has never been shared equally.

The Metis, as key players in the economic, social, and cultural life of the province, did not create the current problems. Historically, we have had minimal or no participation in the shaping of policies that are the source of Saskatchewan's deficit. But for many years the Metis have paid a heavy price for these decisions in the form of chronic unemployment and underemployment as well as poor representation in public and private sector economic initiatives. This, despite the Metis people's willingness and ability to contribute positively in many sectors of the provincial economy.

Given this context, the Metis Economic Strategy intends

to develop and implement community-driven economic initiatives that improve our quality of life and promote our aspirations to be self-determining as people of a Metis Nation.

Specific goals include the improvement of accessibility to equity capital funds, the acquisition of a land and resource base to ensure long-term self-sufficiency, and the establishment of a managerial and trained labour force infrastructure which will enable the Metis to become full partners within the mainstream Canadian

economy. In effect, we seek ownership and control over all forms of economic development that affect our people.

Consistent with our overall self-government framework, a key condition of the strategy is the maximization of local and regional input into policy planning as well as the actual design and delivery of economic initiatives. As a general principle, decision-making and program delivery will be decentralized. This is in recognition of the view that local residents are best equipped to identify their economic needs or problems as well as the solutions most appropriate to their area. To carry out the strategy, a Saskatchewan Metis Economic Development Authority (SMEDA) as well as a system of area and Metis community economic development authorities, each with its own board, will be formed.

This governing system will focus attention on opportunities within various economic sectors, including mining, forestry, tourism, gaming, service industries, and so on. In conjunction with SMEDA, Area Economic Development Authorities, will, among other functions, conduct effective, long-term economic planning, raise investment capital, promote the existing strengths of each region to potential investors, and carry out solo or joint development ventures. Through these efforts, and with the cooperation of other major stakeholders in the provincial and national economies, we expect to take significant strides towards self-sufficiency, an objective that is consistent, of course, with our self-government mandate.

Much has been achieved recently in developing appropriate entrepreneurial skills and expertise among Metis individuals and communities. Much remains to be done. But there is now no question that, with the proper equity and human resource support, we can fully participate in the economic renewal of all regions within the province.

ii) Justice and Social Services

A great deal of study now exists concerning the difficulties Aboriginal individuals and families have experienced with mainstream justice and social services agencies. The Metis population in Saskatchewan, like other Aboriginal peoples, has been consistently over-represented among those in conflict with the law. Our youths and adults too often find themselves charged with offences. Far too many are incarcerated, most within institutions that produce few if any beneficial outcomes.

Similarly, Metis comprise an unacceptably high proportion of the clientele of social services, often with unfortunate results. Those who become dependent upon social assistance tend to lose their sense of self-worth and purpose in life. Their ability to take care of themselves and their children is dramatically reduced.

Compounding the problem, there is a long history of misguided adoption and other

child welfare policies carried out by the provincial department. These had the effect of severely disrupting and in some instances destroying many of our families and communities.

With the passage of time, certain positive changes have taken place at the policy-making and administrative levels. But the overall justice and social services situation has not improved rapidly enough. As a collectivity, the Metis population is comparatively young. Approximately forty percent are under the age of 15. Many of our people, young and old, suffer major economic and social disadvantages. Struggling constantly within the constraints of limited incomes causes tremendous stress for individuals and families while also restricting proper avenues for dealing with the resulting frustration. Existing justice and social services programs and forms of assistance have proven inadequate in alleviating these conditions. Unless meaningful measures are taken soon to deal with the current problems, it is likely that a high proportion of Metis individuals, especially our youth, will continue to have contact with the justice system and experience incarceration.

No one wants to see these events happen. Rather than waiting for the mainstream justice and social services institutions to introduce their own reform processes, we have begun taking action. The MSS established an internal Justice Committee in early 1990. Its main task was to initiate discussions with both

federal and provincial justice officials with the goal of examining the current justice system's affects on Metis people. The Committee also began laying the groundwork for the establishment of what is now the Metis Family and Community Justice Services (MFCJS) affiliate.

Within the context of our self-government goals, MFCJS is designed to coordinate and monitor the planning, development and implementation of social and justice programs and services we anticipate will be needed now and in the foreseeable future. The affiliate's mandate is wide-ranging in an attempt to develop holistic approaches for addressing the complex problems and issues facing our people. Like our other affiliates, it is managed through a board structure that reflects the procedures established by the Provincial Metis Council. Local and regional input is ensured through board membership that includes area representatives.

Basically, we intend to assume, within a five year timeframe, responsibility for the management and delivery of all social and justice services to Saskatchewan Metis. MFCJS's first major initiative is to develop sufficient administrative and program delivery capacities. A comprehensive strategy is currently being finalized which sets out the intended management structure. Emphasis is placed, first of all, on the creation of Metis Regional Authorities which will identify local needs and appropriate solutions for each area. Once established, the Authorities will acquire, within provincial Metis guidelines, increasing degrees of control over

programs and services. We expect this to be accomplished through a phased-in approach beginning with partnership arrangements between the Authorities and the provincial government. The following phase would involve self-delivered, that is, regionally based services through contractual agreements. The final phase, of course, refers to self-government in which all policies and programs are totally under the jurisdiction of our Metis Nation.

None of this will be achieved without difficulty. But we are prepared to meet whatever challenges we may face in acquiring control over the justice and social services areas. The existing systems are fundamentally unjust. They have resulted in too much pain for our people and are insensitive to our needs. The changes we are undertaking are necessary, realistic, and in the best interests of Metis individuals and communities.

iii) Education

Education and training are regarded as crucial to the prosperous future of Metis people. As a collectivity, Metis have a significantly lower educational status than the general population. This has tended to limit severely the economic, political, and social opportunities of our people. The benefits of participation in educational and training programs are multi-faceted. Individuals improve the likelihood of obtaining permanent, well-paying employment, increase their sense of independence and self-worth, and broaden the skill-base of the communities in

which they live. Within the context of Metis history, education by and for Metis is also vital, of course, to the protection of our identity and the transmission of our culture from one generation to the next.

At an institutional level, Metis in Saskatchewan have developed and delivered educational programs for more than a decade. The Gabriel Dumont Institute (GDI), the only Metis controlled post-secondary educational institution in Canada, was incorporated in 1980. It has offered services ranging from contemporary and historical research, curriculum development, Metis studies, and cross-cultural training. Through the years, GDI has also developed an impressive library collection that is used extensively by many students and scholars.

Other Metis related educational programs and services include the Saskatchewan Urban Native Teacher Education Program (SUNTEP), Human Justice (University of Regina), and the recent establishment of the Dumont Technical Institute (DTI) located in Saskatoon. These initiatives have accomplished a great deal in creating a well-managed, coordinated, and province-wide educational system for our people. The foundation is now in place for broadening this infrastructure in a manner consistent with Metis self-government aspirations.

The basic goal in the near term is to prepare and enact a transfer of control to the Metis over education from the kindergarten through to post-secondary levels. This

may be accomplished, in part, through legislation that will create a Metis controlled and administered Department of Education. At the same time, a reassessment is required regarding the ability of mainstream educational and training institutions, at whatever level, to satisfy Metis needs. Discussions and planning sessions have already taken place to act upon this strategy. In addition, the University of Saskatchewan has been approached to consider whether and how GDI might be recognized as a Federated College. As the MSS Education Policy becomes finalized, it is expected that negotiations with relevant federal and provincial agencies will clarify the responsibilities of respectively, Metis, non-Metis governmental, and non-governmental institutions regarding education and training for Metis in the province.

In working towards a Metis controlled education system, we are also, of course, making provisions to train the administrators and other personnel needed for all of our self-government institutions. Each of our affiliates, including GDI and DTI, is operated according to board and administrative structures that require various kinds of expertise as well as knowledge of, and experience with, local and regional concerns. The important task of educating and training future generations of individuals equipped to take on these responsibilities is now underway.

iv) Health

We have long had a strong interest in health issues and the development of appropriate Metis policies aimed at alleviating the health related difficulties facing our people. Compared with the general population, Metis suffer higher rates of infant mortality, cardiovascular disease, and suicide, as well as greater incidences of other serious health problems. Put simply, the health and well-being of Metis individuals continues to lag significantly behind that of the non-Aboriginal public.

For the Metis, the problem has been further aggravated, partly because of ongoing jurisdictional disputes between governments. Unlike some Aboriginal peoples, we have been denied access to certain financial resources and support services aimed at redressing these inequities. In effect, the Metis continue to bear the double burden of a generally poor health status coupled with inadequate means for making the necessary changes.

Clearly, the current situation is not in the best interests of either the Metis people, the provincial health care system, or, for that matter, the federal government's policy of ensuring, whenever possible, an equal standard of health care services throughout Canada. Saskatchewan Health, in its recently implemented reform process, has introduced some encouraging initiatives intended

to increase local or community control over the development, delivery, and evaluation of services. The Metis Society of Saskatchewan welcomes the opportunity to participate in this health reform process, not only in laying the groundwork for those immediate policy and program changes focused on meeting critical Metis health needs, but also in the development of long-term, comprehensive strategies consistent with our self-government aspirations.

In identifying our objectives and strategy for a Metis health system, we draw upon extensive experience, particularly in the field of addictions treatment. Efforts to establish what is now the Metis Addictions Council of Saskatchewan Incorporated (formerly the Saskatchewan Native Addictions Council) began in 1969. After some initial setbacks, the operation, though relatively small, succeeded in achieving notable results. Through the years, the range of services has grown considerably. At the present time, the major function of MACSI is to deliver rehabilitation, education, and prevention services to Metis and other Aboriginal people with drug and alcohol related difficulties. The general treatment approach is holistic. To quote from the organization's Mission Statement,

Each time a client leaves our programs with a feeling of being whole, with an inner peace and equipped with the necessary living skills to continue their journey and assist others we will have achieved our goal.

A key strategy guiding much of the programming is to re-connect the individual undergoing treatment with his or her community. Consequently, local input into both the policy making and program delivery aspects of MACSI is crucial to the success of the treatment and educational services being offered. The Board and administration are comprised of individuals who have knowledge not only of addictions treatment, but also about the dynamics of Aboriginal communities within the province. This is another example of how the MSS and its affiliates are structured to maximize local and regional control within the context of core province-wide objectives.

While addictions treatment is obviously important to the Metis, we also have more comprehensive goals in the area of health. Recently, the MSS submitted its strategy paper, *Partnership for Wellness*, to the provincial government. The basic position taken is that the right to self-determination held by the Metis entitles us to exercise control over matters concerning the health and well-being of our people. To reiterate a point made earlier, the mainstream health system has failed miserably to ensure that Metis enjoy the health status of the general population in Canada. This intolerable situation must not continue.

The fundamental change to be made involves the transfer of control over specific aspects of the health field to the Metis. This would be accomplished through a carefully planned strategy which would build upon the existing strengths of the

MSS. Other affiliates, such as Pathways and MACSI, have demonstrated what we can achieve in delivering programs and services to our people in a competent, effective manner. In health as in other areas, the board and administrative structures would be organized in a manner which:

- the Metis community understands and endorses and would need little instruction to implement,
- has been shown to work well for the coordination and prioritization of both local and regional resources and programs,
- maximizes Metis input and access at the community level.

The details of the *Partnership for Wellness* model describe the process of implementation. For the purposes of this discussion, the point to be emphasized is that this framework is consistent with our overall self-government objectives and strategy. We as Metis know best the health needs of our people. We as Metis must have the legislative authority as well as the financial, administrative, and human resources to implement a health system which will meet our needs.

v) Pathways to Success

It is well known that Metis are severely under-represented in the labour market of Canada. Not only are unemployment rates high, but those who do find work often fail to reach their full potential. In part this is due to inadequate skills levels

among many Metis. Individuals either do not have marketable skills or they have abilities which are in low demand.

In reaction to this general situation, not only with respect to Metis but also to other Aboriginal peoples, Employment and Immigration Canada (EIC) began a Labour Force Development Strategy in 1989. Through a series of subsequent events, including the formation of the Aboriginal Employment and Training Working Group, the Pathways to Success program was initiated. It has several functions, including:

- providing Metis with better access to post-secondary education,
- providing Metis with decision making power over some federal education funding,
- encouraging Metis youth to stay in school,
- meeting changing labour market needs,
- encouraging education and employment equity.

Basically, Pathways is a collaboration of Aboriginal groups in partnership with EIC to carry out these roles. Guiding this arrangement is a procedure which has the intention of ensuring meaningful consultation and local decision making.

Local management boards (LAMBs) identify training needs in their communities as well as strategies for meeting these needs. Each of the six LAMBs in

Saskatchewan includes two MSS areas and is governed by a board which emphasizes grassroots input. There are also regional boards (RAMBs) which work closely with the EIC Regional Office in the development and evaluation of regional training and employment policies, among other tasks. Consistent with the goal of strong community involvement in this policy making process, each LAMB chooses one of its board members to act as a representative on the RAMB board. By extension, each RAMB appoints a board member to the National Aboriginal Management Board (NAMB). As might be expected, the NAMB concentrates on national policies and the implementation of appropriate funding agreements.

The Pathways governance structure in Saskatchewan is somewhat more complicated than elsewhere in Canada. For various reasons, Metis and Indians have developed parallel boards. The Metis have 6 LAMBs who appoint one representative each to the RAMB. However, Metis and Indian boards have also met jointly in the form of a Regional Indian and Metis Management Board (RIMMB). In the fall of 1992, the Indian participants indicated that, from their perspective, there was no further need for this joint regional board. Federal government representatives disagreed. In effect, there is no joint regional board in the province at the present time.

Although the Pathways program has had remarkable success during its short lifespan, we are already examining ways of making it even more responsive to the

needs of our people. Naturally, these changes would be consistent with Metis self-government goals. For example, persistent obstacles to improving the design and delivery of employment training programs take the form of often confusing and contradictory criteria, rules, and regulations established by EIC. Metis Pathways requires more control over programs as well as the funding arrangements for program planning. In addition, the resources available through EIC have proven to be inadequate for our purposes. Consequently, we intend to tap into alternative funding from not only federal and provincial government departments, but also from the private sector.

As Pathways continues to grow, it will play a pivotal role in improving the skills levels of Metis individuals throughout the province. This has obvious economic and personal benefits for each person who participates in a training program. The work of Pathways is also particularly important at this time, however, because it increases our preparedness for self-government. Through education and training, our people are surely raising their self-esteem and self-sufficiency. We are, in other words, developing a growing confidence in our ability to act as masters of our own destiny.

VII. Impediments which have to be addressed and resolved.

While our people strive for the entrenchment of our inherent right of self-government in Canada's Constitution and while we are prepared to accept interim measures as described above, it will be hard to achieve any of this unless we can resolve the major impediments which have confronted us over the past several generations.

It is our belief that these impediments must be fully understood and action taken to address them. If this is not done, then we will continue to be plagued by uncertainty and faced with an unwillingness on the part of governments to deal with us in a meaningful way.

The following describes some of the major obstacles and difficulties that we face.

A. Enumeration, registry and database.

As we entered into the constitutional process in the early 1980s we were confronted with questions such as: Who are the Metis? And, how many Metis are there? During that initial four conference process ending in 1987, we believe we

were successful in educating governments and the public as to who we are and the boundaries of our traditional homeland. We have not however been able to determine the number of Metis who belong to our nation.

One of the fundamental rights which we have put forth, is the right to determine our own citizenship. This in a general sense, must be based on being descendants of the historic Metis population, coupled with self-identification and community acceptance. In this sense, based on criteria to be adopted by our people, we will be able to establish a charter group which will be the beneficiary of the rights and benefits which flow from self-government.

In this connection, we constantly reject any notion that being Metis simply means being of so-called "mixed blood". While it is true that the birth of our nation emerged from the inter-relationship of Indian peoples and non-Aboriginal peoples, it is also true that in northwestern North America a separate, distinct and identifiable nation of Aboriginal people emerged. This nation or people developed a culture, language and customs which go beyond just being of "mixed blood". The existence of the Metis nation beyond being a historical fact, is a current reality.

We know who we are, and we know where we are. Now we need to undertake an enumeration or census to determine how many we are. We have been pursuing such an enumeration with the federal government since 1983. The initial

response was that this should be undertaken through the regular census process of Stats Canada. In this connection, the past two census initiatives have grossly under-represented the actual number of Metis in Saskatchewan, as well as the rest of the homeland. This is primarily due to the fact that we have not endorsed such an exercise, and many of our people simply have not bothered to participate in the census counts.

With this lack of an accurate count, we are beginning to experience the potential of having our funding of programs and services negatively affected as governments are beginning to use the StatsCanada figures. One prime example is the EIC funding under the Labour Force Development Strategy. When the program was implemented two years ago, our funding vis-a-vis the Indians of the province was set at forty percent. We now understand that there is a concerted effort to reduce our funding to reflect the census figures which puts us at less than 30,000, while placing Indian peoples in excess of 60,000. If our funding is reduced, and Indian funding increased because of the census figures, it evidences a heightened need for having an enumeration of our people to take place.

Such an enumeration is also critical as it will also afford us an opportunity to solicit data on the economic and social conditions of our people. Such a database

is necessary to enable us to analyse our current circumstances and thus determine what programs and services are required to enable us to address solutions to our problems.

Finally, in order to maintain an updated count of our people after an enumeration takes place, there will be a need to establish a permanent register based on the initial charter group. This register would be under the control and administration of our national Metis government.

Discussion with respect to an enumeration is currently taking place at the provincial tripartite process levels, as well as through a national forum involving the Metis National Council and the federal and provincial governments. The outcome of these discussions are not certain. Hopefully the endorsement by the Royal Commission on Aboriginal Peoples will help move this agenda forward to a speedy conclusion.

B. Lack of a land and resource base.

As seen earlier, a major impediment to Metis self-government is the lack of a land and resource base. Not only would a land base provide a discrete geographic area over which self-government could be exercised, it would also provide a source of revenue for the delivery of programs and services by the Metis.

However, the position we find ourselves in, is one where the federal government maintains that whatever rights or title we had to land has been extinguished.

This is based on the actions taken by the federal government under the Manitoba Act, 1870 and the Dominion Lands Acts, as enacted from time to time.

By virtue of the Manitoba Act the Metis were guaranteed 1.4 million acres of land to be distributed to the children of Halfbreed heads of families. However, the distribution of the lands did not accord with Metis wishes and through delays which allowed settlers from eastern Canada to take over Metis lands the Metis by and large became dispossessed. In fact distribution of the land did not begin for six years which interval witnessed the Metis going from a majority in the province to a minority. The control effectively went to white Canadians.

By virtue of the Dominion Lands Act, 1879 provision was made for the distribution of land to the Metis outside the province of Manitoba. However, no action was taken on this provision until the Metis took up arms in 1885 to defend their property. Once the unilaterally imposed process started, a full scale dispossession of our people from their lands took place.

As a consequence, the federal government maintains that by the supremacy of parliament, we now longer possess Aboriginal title to our land. While we deny this, and maintain that our rights to land have not been legitimately extinguished,

we have stated that this issue should be set aside and our requirement for land dealt with. While it would be ideal to have the federal government reverse its position, we believe that we should be able to address the issue of Metis lands on the basis that all Aboriginal peoples require a land and resource base to enable meaningful self-government.

With the current position of the federal government, we are denied access to the comprehensive land claims process. In addition, we can't even access the specific claims process as our people are not encompassed by its terms of reference and mandate. So unless the federal and/or provincial governments agree to address our land issues by another means (for example as set out in the Metis Nation Accord), this roadblock to self-government will remain an obstacle.

In a sense it is unfortunate that we cannot access the comprehensive claims process, as there is an opportunity to include self-government agreements within the overall land claims settlement agreements. It should be noted however, that the self-government agreements would be enacted by separate legislation and would not receive constitutional protection until a general constitutional amendment on self-government is achieved. It should also be pointed out that we are also excluded from the federal government's community self-government negotiations.

Perhaps the federal government will be willing to take another look at our claims under the "Other Claims" provisions as outlined in their Federal Policy for the Settlement of Native Claims issued in March 1993. The government characterizes these categories of claims as a "third kind". The first type relates to the comprehensive claims and covers situations where Aboriginal title has been lawfully dealt with, but where the process was not consistent with the reasonable standards of the time. The other type relates to the Crown's responsibility to Native peoples which do not meet the criteria of the Specifics Claims Process.

With respect the first type, the process used may give rise to legitimate concerns, which the Aboriginal group and the government may wish to address. An example used is the Treaty 11 and Treaty 8 areas where the provisions of the treaties were not well suited to the North. In the case of many Metis, the scrip process certainly was not well suited to the North and a new settlement should be negotiated.

The second type relates to specific claims, and uses the Mohawk community at Kanesatake as an example. This type covers cases where the federal government has not breached any lawful obligations, but where legitimate grievances could be resolved in a negotiated settlement. In this case, where a religious order disposed of land owned by them, but used by the Mohawks and where the Supreme Court of Canada found against the Mohawks, the situation was found unfair by the

government and a negotiated resolution is being pursued. While we are being denied access to the specific claims process, we should nevertheless be enabled to access a claims settlement process as no one can argue that our people were not dealt with unfairly by the federal government.

C. Jurisdictional limbo.

The issue of jurisdiction and the Metis has been a longstanding one which has continued to plague our people with respect to potential developments. At the outset, it must be made clear that we are of the view that the federal government has jurisdiction to deal with our people under section 91(24) of the Constitution Act, 1867. As an interim measure, as noted earlier, we are not opposed to the provincial government enacting legislation which will meet some of our immediate concerns. Taking this course of action must not be seen as in any way abandoning our position of being encompassed by 91(24), but can be taken as testimony that the issue of jurisdiction has been bedeviling us for quite some time.

For example, when we wanted to reinitiate the tripartite process in Saskatchewan in 1990 (it was discontinued in 1987) the provincial government as a precondition wanted the federal government to agree to its jurisdictional responsibility to enact legislation necessary to implement Metis self-government as well as its responsibility to finance Metis self-government. On the other hand the federal

government insisted that the province would have to take the lead role and be responsible for the process. Basically, the federal government insisted that Metis were a province responsibility.

With the election of a new government in Saskatchewan in 1991, it was agreed that the tripartite process should be reinitiated without trying to resolve the issue of jurisdiction at the outset. The issue of jurisdiction vis-a-vis legislation and financing would be addressed as a result of the negotiations in the process itself. We are currently in year one of a five year process and can expect that the issue of jurisdiction will eventually emerge and may or may not prove to be an obstacle.

Another prime example of jurisdiction proving to have a negative impact on our people is the position taken by the Department of National Health and Welfare in 1990. Our Organization and the Metis National Council were attempting to gain access to funding for Metis Child and Family Services and alcohol and drug abuse counselling. The response of Health and Welfare Canada was that because we are not under section 91(24) we would have to go to the province for funding required for these initiatives.

With specific reference to self-government, while the federal government under the Department of Indian and Northern Affairs is engaging in community self-government negotiations with Indian peoples we find ourselves on the outside

looking in. This again is due to the position of the federal government that we are a provincial responsibility as they maintain that we are not encompassed by section 91(24).

To us, it is apparent that when and if we get close to self-government agreements, in the absence of resolving section 91(24), that we could come to a deadlock.

Obviously the federal government will be opposed to passing legislation that is Metis specific and the province may be reluctant to do so as it may fear setting a precedent or admission that Metis are indeed under provincial jurisdiction.

While we have lived with this uncertainty, and even agree that as an interim measure provincial legislation would be acceptable, it is desirable that this issue be resolved. Additionally, while we believe that the best solution was the one that was contained in the failed Charlottetown Accord, an alternative would be to have the issue resolved by a reference to the Supreme Court of Canada. This was the method used to address the issue of the Inuit and 91(24) in the 1930s, and one which the Metis National Council requested of the federal government in the 1980s.

D. Inadequate financial and human resources.

Because of the manner by which our people were treated by the Canadian state, including the dispossession of our people from their lands and resources and the outlawing of our way of life, in many cases we no longer have the traditional infrastructures around which our lives revolved. Today, while some of our people continue to live in predominantly Metis communities, many more of our people live in non-Metis urban or rural communities.

Even where we live in predominantly Metis communities, those communities are governed under provincial municipal legislation and have a limited budget and jurisdiction. In the other communities, our people are generally marginalized from the governance structures and operations.

To overcome this, we have been organized politically for generations. However, the basic unit of our Organization, our Locals do not have any financial resources or infrastructure to work with. While meetings are held and various forms of fund-raising may be undertaken, the main role of our Locals has been participation in our General Assemblies and involvement in Local projects when those are available. Coupled with this, most of our Locals lack the human resources necessary to assist in the organizing as they cannot afford to hire professional help and many of our young people cannot become educated because

of the lack of educational assistance. In comparison, Band Councils on Reserves have annual budgets to work with and generally are in a position to hire professionals where necessary. In this connection, many of their people have also been able to get an education through federally funded assistance.

At the regional level the same holds true. Unless our Regional Directors are able to secure programs there is no way that they can operate any kind of administration and generally have to work out of their homes and briefcases. Here again, in contrast, the Tribal Councils have access to funds which enables them to set up administrative and political infrastructures.

At the provincial level, our Organization has limited core funding through the Native Citizens Directorate of the Secretary of State. This enables the Organization to perform minimum functions, including lobbying with respect to Metis rights and operating a basic head office administration. The capacity to be more effective received a severe blow when the province discontinued its core funding in 1987. That core funding amounted to half of the operational funding of the Organization. To date the province has been unwilling to reinstate core funding.

As mentioned earlier, there is a lack of human resources in the Metis community as there is no funding program to assist Metis students pursue university education. In the 1970s and early 1980s a provincial program was in place to assist Metis attend university. While this was helpful, it did not last long enough to be of substantial assistance in building a Metis human resource pool. With the current system of student loans, many of our people who take advantage of the loans end up with serious debt loads when they graduate and of necessity have to seek employment so that they can make their loan payments. As the Organization at all levels cannot afford to hire them, they are lost to non-Metis institutions.

At the current time, we are left with the tripartite process as the only self-government game in town. Even here, we are at a disadvantage as the funding available for this process is minimal and as a consequence precludes our meaningful involvement in the process. Unfortunate as it may be, governments can control the process and progress of self-government by the amounts of financing made available to our people.

E. Public perception.

Due to the dispossession and marginalization of our people since the late 1800s, the public today does not have a good grasp of who we are and our history. A lot of this has changed of course over the past ten years, since we achieved a higher profile through the constitutional process. This has also been assisted through our internal efforts including the work undertaken by our Gabriel Dumont Institute and Pemmican Publications in Manitoba.

We are beginning to feel confident that we are getting better known as to who we are and where we are. True, we have always been seen as being part of the province of Saskatchewan, especially with the historical knowledge that we fought against Canada in the so-called rebellion at Batoche. However, our contribution to Canada is becoming better known and finally in 1991 a Prime Minister has publically acknowledged the existence of the Metis Nation.

This aside, we still have a long way to go in educating the public. Most of those who are aware of Aboriginal peoples, know about the Indians because of Treaties, reserves and the fact that Indians do not have to pay income tax and provincial sales tax. Essentially, there is a higher visibility due to those factors.

Self-government for Treaty Indians is therefore something that is better understood by the public. Self-government for the Metis in a lot of those same eyes is viewed as something less certain as Metis are seen as not possessing the same kind of rights as Indians. Again this perception is there because of the fact that Metis have had their rights suppressed for generations. However, a lot of these same people, would probably see a dark skinned Metis as being an Indian.

In this connection, even until two years ago the Saskatchewan Human Rights Commission in categorizing Aboriginal peoples basically used two categories: Indian and Native. The Metis National Council in attempting to secure funding from the federal government to hold a conference on Metis and racism was asked to prove a need for such a conference. One of the places that the MNC looked for statistics was the Saskatchewan Human Rights Commission. Unfortunately, all the known Metis that made complaints were placed under the category of Natives along with some Indian peoples. Another source looked to was the Native Law Program at the University of Saskatchewan. Here again, the Metis were included under the category of Non-Status Indians. Basically, there were no sources which dealt with Metis as separate Aboriginal people.

It is therefore essential that agencies, institutions and governments generally must begin to accord our people our identity and refer to us as who we are: Metis. This will have to be coupled with a greater effort on the part of schools to ensure that the proper history of our people is reflected in the curriculum exposed to students.

VIII. Conclusion

While the Metis Society encourages the Commission to strongly support and call for the entrenchment of the inherent right of self-government, at the same time it is realized that this will take time. In the interim, Metis people have a lot of catching up to do. One of the ways to do this is to press ahead with internal rebuilding of self-government institutions and the enhancement of Metis political systems. At the same time, Metis people have to be able to access land and resources.

In this connection, the Commission can be supportive of the restructuring process being undertaken by the Metis Society as forming the basic infrastructural foundation for the eventual implementation of self-government in its fullest sense. This can be done by encouraging the federal and provincial governments to give their total support to the current tripartite and bilateral processes, along with adopting the Metis Nation Accord with the changes proposed by the Metis National Council.

As we are not in the same position as Indian and Inuit peoples with respect to self-government, the scope of potential self-government arrangements for our people are somewhat limited and this study is meant to reflect that reality. At the current time we are prepared to embrace what is realistic and feasible, while hoping that the next several years will produce a climate and conditions which will enable us to move forward to the full realization of self-government.

IX. Recommendations

1. That the inherent right of the Metis to land and resources be entrenched in Canada's Constitution.

2. That a land claims process be implemented to deal with Metis land issues, including transfers of land and resources to Metis and access to lands and resources.

3. That the right of Metis to hunt, trap, and fish be recognized and protected in law and that Metis people be directly involved in the management and enforcement of wildlife and fisheries matters.

4. That the inherent right of self-government be entrenched in the Constitution of Canada. That this right be exercisable both on and off a land base.

5. That the inherent right be recognized as one of three orders of government in Canada.

6. That arrangements for the financing of Metis governments be entrenched in the Constitution.

7. That adequate financing of existing Metis organizations and institutions be made available.
8. That the Constitution of Canada be amended to clarify that Metis fall within federal jurisdiction under section 91(24) of the Constitution Act 1867.
9. That an enumeration, database and registry for Metis be undertaken as quickly as possible, based on the principle that the Metis have the right to determine their own citizenship.
10. That the Metis Nation Accord be adopted and implemented.
11. That, as an interim measure, the parties to the current tripartite and bilateral processes in Saskatchewan be encouraged to recognize and implement Metis self-government arrangements as expressed by the Metis.
12. That such self-government arrangements be implemented through legislation (Metis Act).
13. That such arrangements include devolution of programs and services from both levels of government.

14. That such arrangements include co-management of resources, programs and services where so desired by Metis.

15. That a Metis Trust be established to assist Metis in Saskatchewan to become more self-sufficient.

16. That meaningful economic development measures be instituted to enable Metis to become more involved in the generation of employment and to assist in financing self-government initiatives. These may include systems of leases, land transfers to Metis, equity capital and loans for Metis businesses. Income for this could come partially from resource revenue sharing and royalties from resource developments on traditional Metis lands.

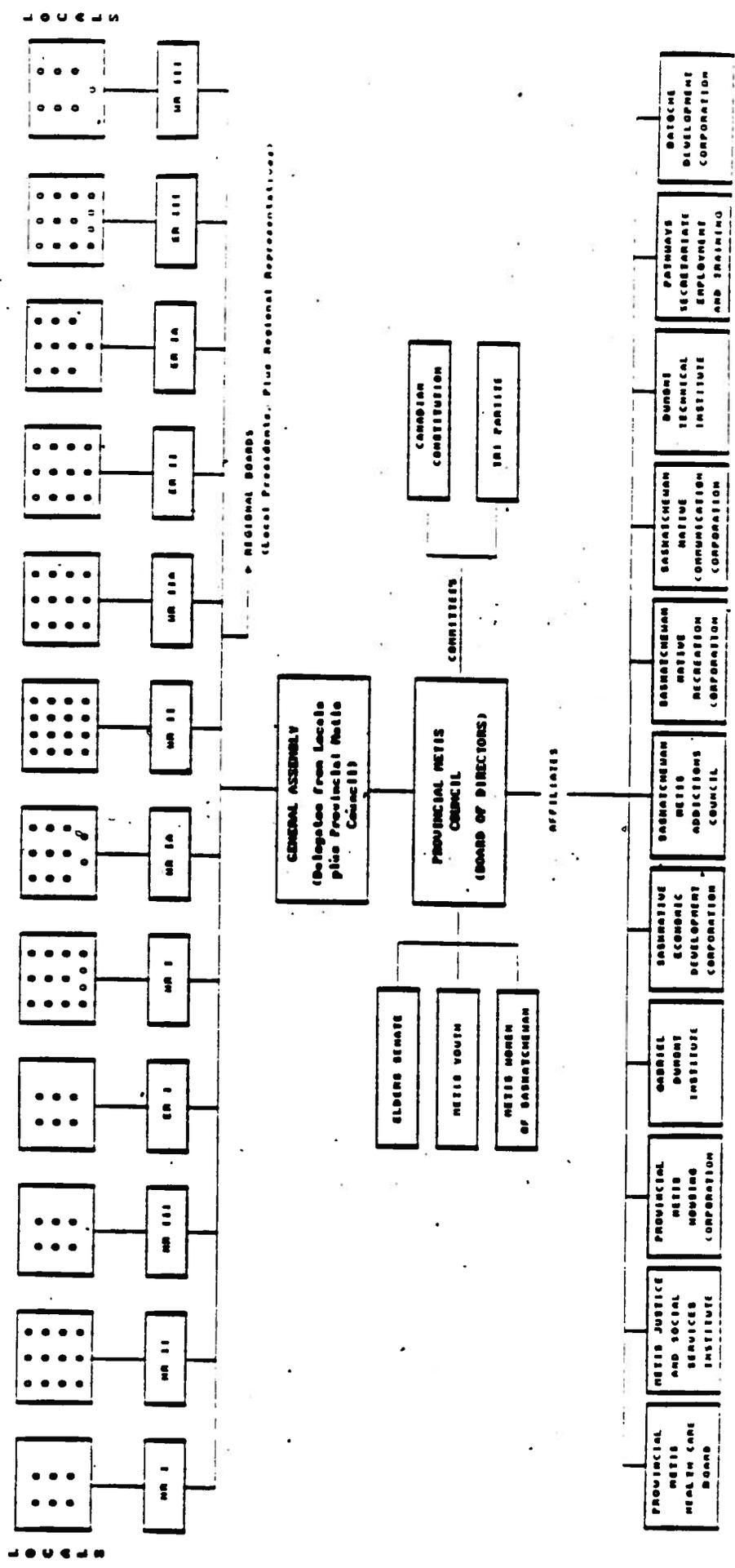
17. That Metis be guaranteed representation in Parliament, the Legislature and the judiciary.

18. That Metis be guaranteed representation in the administrative bodies of governments, as well as schools boards and other agencies that have an impact on Metis life.

19. That the federal government be encouraged to support, promote and adopt the rights of Indigenous peoples in international forums and instruments.

20. That resources be made available to Metis so that we can educate the public with respect to Metis history, culture and rights.

EXHIBIT ONE: ORGANIZATIONAL CHART - METIS SOCIETY OF SASKATCHEWAN



TRIPARTITE PROCESS FRAMEWORK AGREEMENT

Between

THE GOVERNMENT OF CANADA
*as Represented by the Federal Interlocutor for Metis and
Non-Status Indians on behalf of the Government of Canada
(hereinafter referred to as "Canada")*

and

THE GOVERNMENT OF SASKATCHEWAN
*as Represented by the Minister responsible for
Indian and Metis Affairs Secretariat
on behalf of the Government of Saskatchewan
(hereinafter referred to as "Saskatchewan")*

and

THE METIS SOCIETY OF SASKATCHEWAN INC.
*as Represented by the President on behalf of
The Metis Society of Saskatchewan Inc.
(hereinafter referred to as "The Society")*

WHEREAS *the Parties agree this Framework Agreement is without
prejudice to their respective positions on any future constitutional matters
pertaining to Metis;*

AND WHEREAS *the Parties to this Framework Agreement are prepared to
participate in negotiations the purpose of which are to conclude
arrangements respecting Metis control and management over services and
programs that affect them;*

AND WHEREAS *the Parties agree that the nature and content of such
arrangements shall be negotiated in this Framework Agreement;*

NOW THEREFORE *the Parties agree to enter into discussions and
negotiations the object of which shall be to develop feasible arrangements
for the practice of Metis management and control of programs and services
in the Province of Saskatchewan and such discussions and negotiations
shall be carried out based on the principles and within the guidelines set
out below:*

A. MISSION STATEMENT

**The Parties agree the purpose of this Framework Agreement is to enable
the Metis of Saskatchewan to:**

- 1. Exercise a greater degree of control over institutions, structures and
programs that affect them;**
- 2. Maintain their historical and cultural identity as a basis upon which
to build and encourage Metis self-reliance;**
- 3. Develop administrative and management structures and programs
which will guarantee Metis a greater degree of political, economic and
social equity;**

4. *Develop and deliver effective economic, social, health and cultural support services; and*
5. *Identify available and required financial and other resources which may be utilized to support Metis controlled institutions, structures and programs.*

B. PROCESS PRINCIPLES

The Parties agree this Framework Agreement will be based upon the following purposes and principles:

1. *A Tripartite Negotiating Committee will be established and will be comprised of representatives of the Parties to this Framework Agreement. Its purpose will be to manage and oversee discussions and negotiations respecting Metis arrangements;*
2. *The responsibility to bring forward proposals and models for Metis institutions, structures and programs shall rest with The Society;*
3. *Existing Metis institutions, structures and programs may be expanded and/or incorporated into negotiated tripartite arrangements;*
4. *Negotiated arrangements for Metis control and management of programs and services must recognize, accommodate and respect the existing rights and interests of other Aboriginal peoples and the public at large;*
5. *Negotiated arrangements shall not be interpreted so as to abrogate or derogate from any rights referred to in the Constitution or any other provisions pertaining to Metis;*
6. *Arrangements negotiated under this Framework Agreement shall be subject to the ratification and approval process of the respective governing bodies of the Parties;*
7. *Canada and Saskatchewan will cost-share the negotiations under this Framework Agreement within the limits of available funds;*
8. *Nothing in this Framework Agreement shall prevent the Parties from implementing specific program and service initiatives prior to the conclusion of tripartite arrangements. Wherever feasible such initiatives shall be integrated into arrangements negotiated under this Framework;*
9. *Tripartite arrangements will make provision for the resources necessary for effective implementation of Metis controlled institutions, structures and programs included in such arrangements;*
10. *Where tripartite arrangements are ratified by Canada, Saskatchewan and The Society, any modifications or amendments to such arrangements shall require the mutual consent of the Parties;*
11. *The agenda for tripartite discussions and negotiations shall be prioritized by the Parties and developed into an annual workplan for the Tripartite Negotiating Committee; and*
12. *Tripartite discussions and negotiations shall include the agenda set out below but shall not be limited to it.*

C. TRIPARTITE AGENDA

1. *The Parties agree the agenda for this Framework Agreement shall include:*
 - (a) *Metis self-management structures,*
 - (b) *Economic development and housing,*
 - (c) *Land and resources,*
 - (d) *Metis data base, enumeration and registry system,*
 - (e) *Education, training and employment,*
 - (f) *Social services and justice issues,*
 - (g) *Health services, and*
 - (h) *Other items as identified and agreed upon by the Parties.*

2. *Subsequent agenda items shall include:*
 - (a) *Cultural initiatives,*
 - (b) *Urban issues,*
 - (c) *Employment equity within government,*
 - (d) *Legislative and regulatory processes necessary for recognizing and implementing Metis management and control of programs and services, and*
 - (e) *Other items identified and agreed upon by the Parties.*

3. *The Tripartite Negotiating Committee shall undertake and conclude discussion and negotiation of the agenda based on:*
 - (a) *the feasibility of co-management agreements as transitional arrangements,*
 - (b) *the need to establish procedures and negotiating resources for implementing arrangements,*
 - (c) *the need to establish timeframes for implementing negotiated arrangements, and*
 - (d) *any other requirements or procedures which may be identified.*

D. AUTHORITIES

Final authority and decision-making within this Framework Agreement is vested as follows:

Government of Canada

The Federal Interlocutor for Metis and Non-Status Indians with the final authority resting with Cabinet and the Parliament of Canada.

Government of Saskatchewan

Minister responsible for Indian and Metis Affairs Secretariat with the final authority resting with Cabinet and the Saskatchewan Legislature.

The Metis Society of Saskatchewan Inc.

The President of The Society with the final authority resting with the Provincial Metis Council and the General Assembly.

E. AGENCIES RESPONSIBLE FOR THE NEGOTIATION PROCESS

Canada:	Aboriginal Affairs of the Federal-Provincial Relations Office
Saskatchewan:	Indian and Metis Affairs Secretariat
The Society:	MSS Technical Negotiating Committee

F. RESOLUTION PROCESS

The Parties shall endeavour to conclude issues arising during negotiations within the Tripartite Negotiating Committee. Where issues cannot be resolved at this level, as a last resort, they will be referred for consideration, further direction and/or resolution by the responsible Ministers for Canada and Saskatchewan and the President of The Society. It is further understood that the Ministers for Canada and Saskatchewan and the President of The Society may meet from time to time to deal with issues arising from the negotiations and may give direction to the Tripartite Negotiating Committee.

G. BILATERAL AGREEMENTS

Nothing in this Framework Agreement shall be construed so as to prevent The Society from seeking to negotiate and conclude bilateral agreements with either government. Such agreements shall not limit, interfere or prejudice the negotiations established by this Framework Agreement.

H. TERMS OF REFERENCE OF THE NEGOTIATING COMMITTEE

Each party will assume responsibility on a rotating basis for hosting, chairing, preparing an agenda and recording discussions and negotiations. Duties and responsibilities of the Tripartite Negotiating Committee shall be to:

- 1. Ensure necessary background documentation is prepared and available to facilitate discussions and negotiations;**
- 2. Review and recommend details of proposed tripartite arrangements as tabled by The Society;**
- 3. Establish and manage subcommittees as deemed necessary;**
- 4. Call on subcommittees and external experts, to provide technical information and advice;**
- 5. Ensure the respective Authorities to this Framework Agreement are regularly informed about the progress of the discussions and negotiations;**
- 6. Follow the directions of the final Authorities of the respective Parties to this Framework Agreement; and**
- 7. Identify designates to the subcommittees as required.**

I. SUBCOMMITTEES

1. *The Tripartite Negotiating Committee may establish subcommittees as it deems necessary to develop the details of any of the agreed upon agenda items.*
2. *Subcommittees shall be made up of designated officials who have the necessary technical expertise to effectively contribute to the work of the respective subcommittees.*
3. *Subcommittees shall be responsible to and shall report to the Tripartite Negotiating Committee as required.*

J. DURATION

1. *The Parties agree the objective is to conclude the negotiations within five years of signing this Framework Agreement.*
2. *At the end of the five year period, the Parties may agree to extend the duration of this Framework Agreement.*

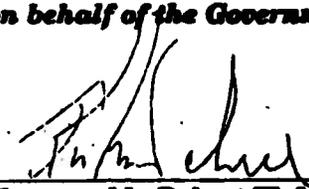
K. IMPLEMENTATION

1. *When negotiation of a particular agenda item is completed, every effort will be made to implement the arrangement as soon as feasible.*
2. *Unresolved agenda items shall be dealt with as outlined in the Resolution Process.*

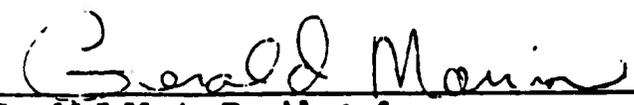
IN WITNESS WHEREOF the Parties, in good faith and with a commitment to successful resolution of all items in this Framework Agreement, set their hands on the 18th day of February, 1993.



The Right Honourable Charles Joseph Clark, P.C., M.P.
Federal Interlocutor for Metis and Non-Status Indians
on behalf of the Government of Canada



Honourable Robert W. Mitchell, Q.C.
Minister responsible for
Indian and Metis Affairs Secretariat
on behalf of the Government of Saskatchewan



Gerald J. Morin, President of
The Metis Society of Saskatchewan Inc.

BILATERAL PROCESS AGREEMENT

Between

THE GOVERNMENT OF SASKATCHEWAN
as Represented by the Premier of Saskatchewan
on behalf of the Government of Saskatchewan
("Saskatchewan")

and

THE METIS SOCIETY OF SASKATCHEWAN INC.
as represented by the President
on behalf of the Metis Society of Saskatchewan Inc.
(the "Society")

WHEREAS the Parties to this Bilateral Process Agreement wish to foster and maintain a constructive relationship;

WHEREAS the parties wish to address matters which are not appropriately addressed through the Tripartite Process Framework Agreement with Canada, Saskatchewan and the Society;

WHEREAS the parties wish to use a bilateral process to clarify federal jurisdiction for Metis people;

AND WHEREAS the Parties agree this Agreement is without prejudice to their respective positions on any future constitutional or other matters pertaining to Metis people;

NOW THEREFORE the parties agree to formally enter into a process which will enable them to jointly address policy and planning issues of mutual concern through the structures and terms of references set out below:

STRUCTURE:

The structure of the bilateral process shall be comprised of a leaders' forum and a tier one and tier two committee structure.

1) Leaders Forum:

Composition and Frequency of Meetings: The Premier of Saskatchewan and the President of the Metis Society of Saskatchewan shall meet regularly.

2) Tier One Committee Structure:

Composition and Frequency of Meetings: A Cabinet Committee and the Metis Society of Saskatchewan Executive shall meet quarterly.

The Cabinet Tier One Committee shall be composed of the following:

- . Premier (ex officio)
- . Minister responsible for Indian and Metis Affairs (co-chair)
- . Provincial Secretary (responsible for federal/provincial relations)
- . Minister or Associate Minister of Finance
- . Minister of Economic Development
- . Other Ministers as required

The Metis Society Tier One Committee shall be composed of the following:

- . President (ex officio)
- . Treasurer
- . Secretary
- . Twelve Area Directors
- . Metis Senator
- . Metis Women of Saskatchewan Representative
- . Metis Youth Representative

Terms of Reference-Tier One Committee:

The bilateral process shall provide a forum for the parties to:

- (a) consult on relationship and process issues;
- (b) develop joint strategies to clarify federal jurisdiction for Metis people and to maximize federal responsibility and funding;
- (c) address policy and sector program issues including those that could not be resolved at the tripartite level;
- (d) provide direction to the Tier Two Committee.

Commitments on financial matters will not be decided upon in this forum but referred to the normal decision making processes of government.

3) Tier Two Committee Structure:

Composition and Frequency of Meetings: The leaders' meetings and the Tier One Committee will be supported by a standing technical committee, the Tier Two Committee, which will meet as required.

The Provincial Tier Two Committee will be composed of the following:

- . Deputy or Associate Deputy Minister to the Premier
- . Deputy Minister, Indian and Metis Affairs Secretariat (co-chair)
- . Deputy Minister, Provincial Secretary
- . Deputy Minister, Justice
- . Deputy Minister, Finance
- . Deputy Minister, Economic Development
- . (Other Deputies will attend on an ad hoc basis)

The Metis Society Tier Two Committee will be composed of officials and technical staff of the Metis Society and Metis institutions including:

- . Metis Society of Saskatchewan (Executive Offices)
- . Gabriel Dumont Institute
- . Sasknative Economic Development Corporation
- . Provincial Metis Housing Corporation
- . Metis Women of Saskatchewan
- . Metis Pathways Secretariat
- . Others to be determined by the Metis Society of Saskatchewan

The Provincial and the Metis Society Tier Two Committees may establish working groups and ad hoc committees of technicians as required.

Terms of Reference-Tier Two Committee:

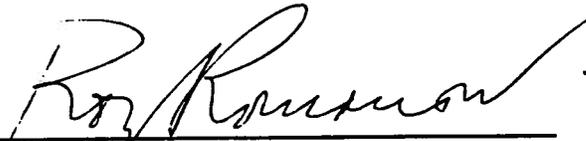
The Tier Two Committee is designed to provide a forum for Provincial and Metis Society officials to:

- (a) consult with one another on technical policy and program matters of mutual concern.
- (b) provide technical and professional advice to the Tier One Committee; and
- (c) to resolve program and policy issues raised at the Tier One Committee meetings.

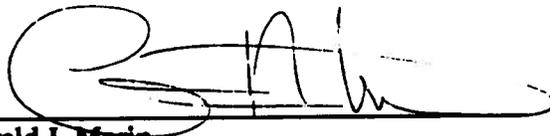
4. Link to Tripartite Process:

- Where the parties concur, policy or technical matters arising from the Tier I and Tier II committees may be referred to the Tripartite process for attention.

IN WITNESS WHEREOF the Parties, in good faith and with a commitment to successful resolution of all items in this Bilateral Agreement, set their hands on the 24th day of June, 1993.



Premier Roy Romanow
on behalf of the Government of Saskatchewan



Gerald J. Morin
President of the Metis Society of Saskatchewan Inc.

October 7, 1992

METIS NATION ACCORD

BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA
AS REPRESENTED BY THE PRIME MINISTER**

AND

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCES OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA AND ONTARIO**

AND

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES
AS REPRESENTED BY THEIR RESPECTIVE FIRST MINISTERS**

AND

**THE METIS NATION OF CANADA AS REPRESENTED
NATIONALLY BY THE METIS NATIONAL COUNCIL
AND PROVINCIALLY BY**

THE PACIFIC METIS FEDERATION

THE METIS NATION OF ALBERTA

THE METIS SOCIETY OF SASKATCHEWAN

THE MANITOBA METIS FEDERATION

THE ONTARIO METIS ABORIGINAL ASSOCIATION

THE METIS NATION-NORTHWEST TERRITORIES

AS REPRESENTED BY THEIR RESPECTIVE PRESIDENTS

**This document reflects a best efforts draft of the Metis Nation Accord for final review by
First Ministers and Aboriginal leaders.**

PROTECTED

**DOCUMENT: LT-004/R5
DATE DISTRIBUTED: 07/10/92**

**MEETINGS ON THE CONSTITUTION
LEGAL TEXT PROCESS**

REVISED

Metis Nation Accord

Metis National Council

07/10/92 19:05

Whereas in the Northwest of Canada the Metis Nation emerged as a unique Nation with its own language, culture and forms of self-government;

And whereas historically the Metis Nation has sought agreements with Canada to protect its land and other rights;

And whereas Metis were formally recognized in the *Manitoba Act, 1870* and the *Dominion Lands Acts*;

And whereas the existing aboriginal and treaty rights of Aboriginal peoples including the Metis are recognized and affirmed in the *Constitution Act, 1982*;

And whereas the Metis Nation, Canada and the Provinces agree that it is just and desirable to recognize the contribution made by the Metis to the Canadian federation and further agree that measures are necessary to strengthen their place within the Canadian federation;

And whereas the Metis people of Canada have contributed and continue to contribute to the development and prosperity of Canada;

And whereas the Metis Nation, Canada and the Provinces agree that it is necessary and desirable to set out their respective roles and obligations to each other;

NOW THEREFORE the representatives of the Metis Nation, Canada and the Provinces hereby agree to enter into an Accord with the following terms:¹

1. Definitions

For the purposes of the Metis Nation and this Accord,

- a) "Metis" means an Aboriginal person who self-identifies as Metis, who is distinct from Indian and Inuit and is a descendant of those Metis who received or were entitled to receive land grants and/or scrip under the provisions of the *Manitoba Act, 1870*, or the *Dominion Lands Acts*, as enacted from time to time.
- b) "Metis Nation" means the community of Metis persons in subsection a) and persons of Aboriginal descent who are accepted by that community.
- c) "Incremental program delivery costs" means those costs for the new or enhanced programs intended exclusively for Metis and delivered by Metis self-governing institutions, additional to the costs of programs which are replaced by those new or enhanced programs.

¹ Provisions referring to the proposed constitutional amendments are under consideration pending finalization of the legal text and the general Political Accord.

- d) "Transfer payments" means financial transfers provided to Metis self-governing institutions by Canada or the Provinces, whether in the form of block grants, cost-sharing, formula finance or like methods and intended to help defray the costs of Metis self-governing institutions.
- e) "Direct costs of Metis self-governing institutions established as a result of self-government agreements" means the start-up and operating costs of structures established to direct Metis self-government, including boards and legislative bodies, but excluding the operating costs of organizations intended to deliver programs.
- f) "Provinces" means the provinces of British Columbia, Alberta, Saskatchewan, Manitoba and Ontario and the Northwest Territories.
- g) "Metis self-governing institution" means an institution established pursuant to a self-government agreement.
- h) "Self-government negotiations" means negotiations within the context of section 35.2(1) of the *Constitution Act, 1982*.

2. Enumeration and Metis Registry

Canada and the Provinces will contribute resources to the Metis Nation to conduct an enumeration of the Metis Nation including the costs of administering and maintaining a Metis Nation controlled national registry. This process, which will include a right of appeal, will be determined through multilateral negotiations among the parties to this Accord.

3. Self-Government Negotiations

- a) Without altering the obligations of the Government of Canada and the Provinces under section 35.2 of the *Constitution Act, 1982*, the Government of Canada, the representatives of the Metis Nation and the Provinces agree to negotiate in good faith the implementation of the right of self-government, including issues of
 - i) jurisdiction; and
 - ii) economic and fiscal arrangements,with the objective of concluding tripartite self-government agreements elaborating the relationship among the Metis Nation, Canada and the Provinces.

- b) For the purposes of the Northwest Territories, negotiations will be conducted through comprehensive land claims, treaty or self-government negotiations and will include both Metis and Indians as parties.
- c) Notwithstanding subsection b), subsection a) shall apply in the Northwest Territories
 - (i) in geographic areas where an Indian band proceeds to treaty land entitlement negotiations and where Metis in that geographic area are ineligible or decide not be participants in said negotiations; and,
 - (ii) one year following the effective date of this Accord, except for those parts of the Northwest Territories covered by comprehensive land claims, treaty or self-government agreements that include both Metis and Indians as parties or where such negotiations are in progress.

4. Land and Resources

Within the context of self-government negotiations,

- a) Canada and the Provinces agree, where appropriate, to provide access to lands and resources to Metis and Metis self-governing institutions;
- b) Where land is to be provided, Canada and the Provinces, except Alberta, agree to make available their fair share of Crown lands for transfer to Metis self-governing institutions;
- c) The value of the transfers and access referred to in this section shall be taken into account in self-government negotiations; and
- d) Canada and the Provinces agree to enter into discussions with representatives of the Metis Nation on the establishment of a land negotiation process.

Consistent with the above, it is acknowledged that Alberta has negotiated and transferred the fee simple in 1.28 million acres of land to the Metis in Alberta and has committed to spending \$310 million over 17 years, pursuant to the Alberta-Metis Settlements Accord.

5. Resourcing of Negotiations

Canada and the Provinces agree to contribute adequate resources to enable representatives of the Metis Nation to participate in tripartite self-government negotiations.

6. Devolution

In self-government negotiations, Canada and the Provinces will negotiate the transfer to Metis self-governing institutions the portion of aboriginal programs and services currently available to Metis.

7. Cost of Institutions

Canada agrees to provide a substantial portion of the direct costs of Metis self-governing institutions established as a result of self-government agreements. The Provinces and the Metis Nation will provide the remaining portion of the costs. The Metis Nation share of the remaining portion of the cost will be determined in self-government negotiations taking into account the capacity of Metis governments to raise revenue from their own sources.

8. Net Incremental Program and Delivery Costs

Canada agrees to provide its share of the net incremental program and delivery costs deriving from self-government agreements. The Provinces and the Metis Nation will provide the remaining portion of the costs. The Metis Nation share of the remaining portion of the cost will be determined in self-government negotiations taking into account the capacity of Metis governments to raise revenue from their own sources.

9. Transfer Payments

Within the context of self-government negotiations,

- a) Canada and the Provinces agree to provide Metis self-governing institutions with transfer payments to enable them to establish and deliver programs and services to Metis.
- b) These transfer payments shall assist Metis self-governing institutions to establish similar types of programs and services as those enjoyed by other Aboriginal peoples.

10. Preservation of Existing Commitments

- a) Canada will not reduce funding or services to the Aboriginal peoples of Canada as a result of the signing of this Accord or the coming into force of section 91A of the *Constitution Act, 1867*.
- b) Canada and the Provinces will not reduce funding or services to Metis as a result of the signing of this Accord or the coming into force of section 91A of the *Constitution Act, 1867*.

11. Alberta Metis Settlements

Without derogating from the Metis Nation's right of representation on general matters, this Accord recognizes that the Alberta Metis Settlements' General Council has the sole right to negotiate, conclude and implement intergovernmental agreements respecting the lands, members, and self-government of the Metis Settlements in Alberta.

12. Gender Equality

The rights and benefits referred to in this Accord are guaranteed equally to female and male persons.

13. Non-Derogation

- a) Nothing in this Accord shall be construed so as to abrogate or derogate from any aboriginal, treaty, or other rights or freedoms that pertain to the Aboriginal peoples of Canada.
- b) Nothing in this Accord is intended to apply to any other Aboriginal people who are not within the ambit of this Accord.

14. Nature of Instrument and Legal Certainty²

Upon a proclamation issued by the Governor General under the Great Seal of Canada of amendments to the Constitution of Canada, which include an amendment to the *Constitution Act, 1982* recognizing the inherent right of self-government of the Aboriginal peoples of Canada and the coming into force of section 91A of the *Constitution Act, 1867*, clarifying that all of the Aboriginal peoples of Canada are included in section 91(24), the Government of Canada shall recommend to Parliament and the Governments of the Provinces shall recommend to their Legislative Assemblies legislation or take such other steps as are necessary to confirm that this Accord is approved, is legally binding on Her Majesty and is both enforceable and justiciable. The Accord shall be included as a schedule to the legislation.

² Canada and British Columbia have indicated that legislation will be introduced.

15. Application of Political Accord Relating to Aboriginal Constitutional Matters

The provisions of the Political Accord Relating to Aboriginal Constitutional Matters and the proposed "Negotiations Processes Accord" shall apply to the Metis Nation. Where the provisions of the Metis Nation Accord are more specific or relate to matters not addressed in the Political Accord Relating to Aboriginal Constitutional Matters and the proposed "Negotiations Processes Accord", the provisions of the Metis Nation Accord shall prevail.

16. Representation of the Metis Nation

- a) **The Metis Nation is represented nationally by the Metis National Council. Provincial and territorial representation of the Metis Nation includes the Pacific Metis Federation, Metis Nation of Alberta, Metis Society of Saskatchewan, Manitoba Metis Federation, Ontario Metis Aboriginal Association and the Metis Nation-Northwest Territories, acting either collectively or in their individual capacity, as the context requires, or their successor Metis organizations, legislative bodies or governments.**
- b) **The parties agree that:**
 - (i) **self-government agreements referred to in this Accord shall be negotiated only by duly mandated representatives of the Metis Nation directly concerned including, for greater certainty, duly mandated representatives of Metis Nation communities;**
 - (ii) **the preferred means for resolving issues with respect to the representation of Metis for the purposes of participation in self-government negotiations, is to use procedures internal to the Metis Nation; and**
 - (iii) **if requested by a group of Metis, the federal and provincial governments concerned may participate in an informal, mutually agreed upon process with the Metis Nation to resolve a representation issue that is not resolved internally.**

17. Ratification Procedure

This Accord shall be considered adopted by the Metis Nation upon the passage of a duly authorized motion by a special assembly of elected Metis representatives of the Metis Nation as defined herein.

Yvon Dumont, President
Metis National Council
Manitoba Metis Federation

Norm Evans, President
Pacific Metis Federation

Larry Desmeules, President
Metis Nation of Alberta

Gerald Morin, President
Metis Society of Saskatchewan

Gary Bohnet, President
Metis Nation-Northwest
Territories

Ron Swain, President
Ontario Metis Aboriginal
Association

British Columbia

Alberta

Saskatchewan

Manitoba

Ontario

Canada

Northwest Territories

October 27, 1992

METIS NATION ACCORD

BETWEEN

HER MAJESTY THE QUEEN, IN RIGHT OF CANADA
AS REPRESENTED BY THE PRIME MINISTER

AND

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCES OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
MANITOBA AND ONTARIO
AND
THE GOVERNMENT OF THE NORTHWEST TERRITORIES
AS REPRESENTED BY THEIR RESPECTIVE FIRST MINISTERS

AND

THE METIS NATION OF CANADA AS REPRESENTED
NATIONALLY BY THE METIS NATIONAL COUNCIL
AND PROVINCIALLY BY
THE PACIFIC METIS FEDERATION
THE METIS NATION OF ALBERTA
THE METIS SOCIETY OF SASKATCHEWAN
THE MANITOBA METIS FEDERATION
THE ONTARIO METIS ABORIGINAL ASSOCIATION
THE METIS NATION-NORTHWEST TERRITORIES
AS REPRESENTED BY THEIR RESPECTIVE PRESIDENTS

Whereas in the Northwest of Canada the Metis Nation emerged as a unique Nation with its own language, culture and forms of self-government;

And whereas historically the Metis Nation has sought agreements with Canada to protect its land and other rights;

And whereas Metis were formally recognized in the *Manitoba Act, 1870* and the *Dominion Lands Acts*;

And whereas the existing aboriginal and treaty rights of Aboriginal peoples including the Metis are recognized and affirmed in the *Constitution Act, 1982*;

And whereas the Metis Nation, Canada, and the Provinces agree it is just and desirable to recognize the contribution made by the Metis to the Canadian federation and further agree measures are necessary to strengthen their place within the Canadian federation;

And whereas the Metis people of Canada have contributed and continue to contribute to the development and prosperity of Canada;

And whereas the Metis Nation, Canada and the Provinces agree it is necessary and desirable to set out their respective roles and obligations to each other;

NOW THEREFORE the representatives of the Metis Nation, Canada and the Provinces hereby agree to enter into an Accord with the following terms:

1. Definitions

For the purposes of the Metis Nation and this Accord,

- a) "Metis" means an Aboriginal person who self-identifies as Metis, who is distinct from Indian and Inuit and is a descendant of those Metis who received or were entitled to receive land grants and/or scrip under the provisions of the *Manitoba Act, 1870*, or the *Dominion Lands Acts*, as enacted from time to time.
- b) "Metis Nation" means the community of Metis persons in subsection a) and persons of Aboriginal descent who are accepted by that community.

- c) "Incremental program delivery costs" means those costs for the new or enhanced programs intended exclusively for Metis and delivered by Metis self-governing institutions, additional to the costs of programs which are replaced by those new or enhanced programs.
- d) "Transfer payments" means financial transfers provided to Metis self-governing institutions by Canada or the Provinces, whether in the form of block grants, cost-sharing, formula finance or like methods and intended to help defray the costs of Metis self-governing institutions.
- e) "Direct Costs of Metis self-governing institutions established as a result of self-government agreements" means the start-up and operating costs of structures established to direct Metis self-government, including boards and legislative bodies, but excluding the operating costs of organizations intended to deliver programs.
- f) "Provinces" means the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and the Northwest Territories.
- g) "Metis Self-governing institution" means an institution established pursuant to a self-government agreement.
- h) "Self-government negotiations" means negotiations referred to in Section 3 of this Accord.

2. Enumeration and Metis Registry

Canada and the Provinces will contribute resources to the Metis Nation to conduct an enumeration of the Metis Nation including the costs of administering and maintaining a Metis Nation controlled national registry. This process which will include a right of appeal, will be determined through multilateral negotiations among the parties to this Accord.

3. Self-Government Negotiations

- a) The Government of Canada, the representatives of the Metis Nation and the Provinces agree to negotiate in good faith the

implementation of the right of self-government, including issues of

- i) jurisdiction; and
- ii) economic and fiscal arrangements,

with the objective of concluding tripartite self-government agreements elaborating the relationship between the Metis Nation, Canada and the Provinces.

- b) For the purposes of the Northwest Territories, negotiations will be conducted through comprehensive land claims, treaty or self-government negotiations and will include both Metis and Indians as parties.
- c) Notwithstanding subsection b), subsection a) shall apply in the Northwest Territories
 - (i) in geographic areas where an Indian band proceeds to treaty land entitlement negotiations and where Metis in that geographic area are ineligible or decide not to be participants in said negotiations; and
 - (ii) one year following the effective date of this Accord, except for those parts of the Northwest Territories covered by comprehensive land claims, treaty or self-government agreements that include both Metis and Indians as parties or where such negotiations are in progress.

4. Land and Resources

Within the context of self-government negotiations,

- a) Canada and the Provinces, agree where appropriate, to provide access to lands and resources to Metis and Metis self-governing institutions;
- b) Where land is to be provided, Canada and the Provinces, except Alberta, agree to make available their fair share of Crown lands for transfer to Metis self-governing institutions;

- c) The value of the transfers and access referred to in this section shall be taken into account in self-government negotiations; and
- d) Canada and the Provinces agree to enter into discussions with representatives of the Metis Nation on the establishment of a land negotiation process.

It is acknowledged that Alberta has negotiated and transferred the fee simple in 1.28 million acres of land to the Metis in Alberta and has committed to spending \$310 million over 17 years, pursuant to the Alberta-Metis Settlements Accord.

5. Resourcing of Negotiations

Canada and the Provinces agree to contribute adequate resources to enable representatives of the Metis Nation to participate in tripartite self-government negotiations.

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In self-government negotiations, Canada and the Provinces will negotiate the transfer to Metis self-governing institutions the portion of aboriginal programs and services currently available to Metis.

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10. Preservation of Existing Commitments

- a) Canada will not reduce funding or services to the Aboriginal peoples of Canada as a result of the signing of this Accord.
- b) Canada and the Provinces will not reduce funding or services to Metis as a result of the signing of this Accord.

11. Alberta Metis Settlements

Without derogating from the Metis Nation's right of representation on general matters, this Accord recognizes that the Alberta Metis Settlements' General Council has the sole right to negotiate, conclude and implement inter-governmental agreements respecting the lands, members, and self-government of the Metis Settlements in Alberta.

12. Gender Equality

The rights and benefits referred to in this Accord are guaranteed equally to female and male persons.

13. Non-Derogation

- a) Nothing in this Accord shall be construed so as to abrogate or derogate from any aboriginal, treaty, or other rights or freedoms that pertain to the Aboriginal peoples of Canada.

- b) Nothing in this Accord is intended to apply to any other Aboriginal people who are not within the ambit of this Accord.

14. Nature of Instrument and Legal Certainty

After the signing of this Accord, the Government of Canada shall recommend to Parliament and the Governments of the Provinces shall recommend to their Legislative Assemblies legislation or take such other steps as are necessary to confirm that this Accord is approved, is legally binding on Her Majesty and is both enforceable and justiciable. The Accord shall be included as a schedule to the legislation.

15. Representation of the Metis Nation

- a) The Metis Nation is represented nationally by the Metis National Council. Provincial and territorial representation of the Metis Nation includes the Pacific Metis Federation, Metis Nation of Alberta, Metis Society of Saskatchewan, Manitoba Metis Federation, Ontario Metis Aboriginal Association and the Metis Nation-Northwest Territories, acting either collectively or in their individual capacity, as the context requires, or their successor Metis organizations, legislative bodies or governments.
- b) The parties agree that:
- (i) Self-government agreements referred to in this Accord shall be negotiated only by duly mandated representatives of the Metis Nation directly concerned including, for greater certainty, duly mandated representatives of Metis Nation communities.
 - (ii) the preferred means for resolving issues with respect to the representation of Metis for the purposes of participation in self-government negotiations, is to use procedures internal to the Metis Nation; and
 - (iii) if requested by a group of Metis, the federal and provincial governments concerned may participate in an informal, mutually agreed upon process with the Metis Nation to resolve a representation issue that is not resolved internally.

16. Ratification Procedure

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Yvon Dumont, President
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Gary Bohnet, President
Metis Nation-Northwest Territories

Ron Swain, President
Ontario Metis Aboriginal Association

British Columbia

Alberta

Saskatchewan

Manitoba

Ontario

Northwest Territories

Canada