

Introduction to Documents Two and Three

In May 1992, the Métis National Council succeeded in having the federal government and western provinces accept the "Métis Nation Accord," a broad document that established the rights of the Métis and untangled their historically complex and ambiguous legal position within Canada (see Section 56 of the Charlottetown Accord, Document One in this section of NSR). The document, once ratified by the Métis and the respective legislatures, would have been legally binding. However, the rejection of the Charlottetown Accord in the fall of 1992 effectively derailed the Métis initiative. Nevertheless, the Métis National Council continues to use the document as its blueprint for Métis rights and self-government, and ongoing negotiations with various governments are guided by the principles contained therein. The Métis Nation Accord is a clear and concise statement of the Métis' view of their future within Canada.

The *Native Studies Review* is pleased to present the Métis Nation Accord in its entirety, plus an informative sketch of its development. In so doing, the Editors wish to acknowledge the assistance of Gerald Morin, President of the Métis Society of Saskatchewan, in providing these documents.

James B. Waldram
Editor

Document Two: History and Background to Metis Nation Accord

Chronology of Events Leading to the Metis Nation Accord

1. September, 1991 – The federal government tables proposals to renew the Canadian federation. The Proposals call for sweeping changes to the Constitution including a commitment to address *“the appropriate roles and responsibilities of governments as they relate to the Metis.”* A parliamentary committee is struck to canvass the views of Canadians.
2. September, 1991 – In concert with the introduction of the federal proposals, the Metis National Council (MNC) is provided with resources to conduct parallel constitutional consultations with Metis people. These consultations are held on a province-by-province basis. Each provincial association conducts community consultations and produces a report.
3. October, 1991 – The Prime Minister meets the MNC leadership in Winnipeg, recognizes the Metis Nation and pledges to work with those who are ready to move ahead on constitutional issues. The Prime Minister suggests that the federal government is prepared to open up a bilateral process with the Metis Nation.
4. December, 1991 – The MNC and other national organizations obtain a meeting with the Joint Parliamentary Steering Committee and obtain an agreement to convene a two day orientation session involving the whole committee. The Committee also agrees to establish a sub-committee on Aboriginal issues and further agrees to a full day meeting between the MNC and the sub-committee. In addition, the Steering Committee agrees to meet with the MNC and other national Aboriginal organizations prior to writing their final report.
5. January 11, 1992 – Ottawa. The orientation session with the Parliamentary Committee includes cultural exposé, a historical overview of Metis relations with the federal government and a description of the living conditions of the Metis.

6. January 22, 1992 — Edmonton. The MNC makes a presentation to the Joint Parliamentary Liaison Committee dealing with Aboriginal Issues. The MNC addresses all 28 constitutional proposals but focuses upon the Canada Clause, Aboriginal self-government, representation in the Senate, participation in Constitutional discussions, jurisdiction and responsibility for Metis under section 91(24).
7. February 11, 1992 — Ottawa. The MNC makes its final presentation to the Joint Parliamentary Committee and focuses upon the division of powers, Metis self-government, Metis representation in the Senate, the ongoing process, the Canada Clause and recognition of Quebec as a distinct society. The MNC places particular emphasis upon section 91(24), Metis land base and the PM's promised bilateral process.
8. March, 1992 — Ottawa. The Joint Parliamentary Committee delivers its report but stops short of recommending an amendment to section 91(24) as requested by the MNC. The Committee Report does recommend that the federal government respond to the Metis desire for land and resources. (The Committee Chairs subsequently advise the MNC that the only reason for not recommending a change to 91(24) was because the Committee also recommended the abolishment of 91(24) in another section of its report).
9. March 2, 1992 — Toronto. The MNC prepares a discussion paper and makes a presentation to the provincial Native Affairs Ministers. The MNC focuses upon obtaining provincial support for an amendment to section 91(24). Most Ministers agree that the federal government is responsible and include this in the final report.
10. March 12, 1992 — Ottawa. The MNC is invited to an inter-governmental affairs meeting of Ministers. The MNC presentation focuses upon the need for the federal government to assume its responsibility for Metis under section 91(24). The MNC also seeks and obtains a commitment for Metis participation in all future constitutional discussions.
11. March 13-15, 1992 — Ottawa. A special constitutional conference is held to review Aboriginal constitutional matters. Representatives from all prairie Metis organizations converge on Ottawa and succeed in making Metis issues the focal point of the conference. Metis Senators from Manitoba and Alberta lead the effort in the workshops and on the conference floor.

12. April 8, 9 & 14, 1992 – Halifax/Ottawa. The Multilateral talks commence and the MNC elevates the issue of responsibility for the Metis under section 91(24) to the top of the agenda. The federal government indicates it is not prepared to amend section 91(24) but agrees to place the issue on the agenda for Edmonton.
13. April 29 & 30, 1992 – Edmonton. The MNC pushes for a commitment from provincial governments to support an amendment to section 91(24) and obtains support. The federal government indicates that it would consider an amendment to section 91(24) if the provinces share in the responsibility to Metis. The MNC, the provinces and the federal government agree to set up a Task Force to pursue the issue further and to make an interim report to a Ministerial luncheon in Saint John. Ministers also agree to bring the issue back to the formal process in Vancouver.
14. May 5, 6 & 7, 1992 – Saint John. A task force of officials meets and produces a report on Metis issues for Ministers. The report is adopted by Ministers and contains four major commitments:
 - The federal government will not reduce services to Indians in response to an amendment to Section 91(24);
 - Provinces and territories will not reduce services to Metis in response to an amendment to Section 91(24);
 - All parties agree to participate in negotiations regarding the provision of a land base for Metis; and
 - The federal and provincial governments agree to participate in and fund an enumeration and registration process for Metis.
15. May 11-13, 1992 – Vancouver. The MNC advances the Metis agenda by confirming the agreements reached in Saint John at the public Multilateral meeting and tables a draft Treaty containing these commitments as well as several others. The MNC obtains an agreement to convene a special Meeting of Ministers to deal with Metis Issues, including the Treaty, in Montreal. The Special meeting is to be chaired by Jake Epp who has just agreed to the Prime Minister's request that he assume the role of Metis Interlocutor.

16. May 20-22, 1992 – Montreal. Jake Epp chairs the special Metis Task Force meeting of western provincial Inter-governmental Affairs Ministers and paves the way for progress in the multilateral process. The multilateral meeting of Ministers reviews the progress made in the special Task Force meeting and supports the majority of the substantive elements of the document. The MNC and Ministers agree that the commitments ultimately reached will be in a legally binding Accord that is both enforceable and justiciable. Ministers agree to review a final draft of the Accord and the issue of section 91(24) in Toronto.
17. May 26-30, 1992 – Toronto. Ministers agree to remaining elements of the Metis Nation Accord and Minister Clark indicates that on the basis of the Accord he is prepared to recommend an amendment to section 91(24) to the federal Cabinet.

Document Three: Metis Nation Accord

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 Métis 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.

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

11. Alberta Métis 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 Nations; 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

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 Métis 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

Northwest Territories

Canada