

OCT 05 1984

DOCUMENT: 830-143/008

CROSS REF: 840-293/004

Summary of Metis National Council on  
in The Constitution

**FEDERAL-PROVINCIAL MEETING OF MINISTERS**

Principles for An Agreement on Metis Self-Identification  
**ON ABORIGINAL CONSTITUTIONAL MATTERS**

1) The Metis are:

- an aboriginal people distinct from Indians and Inuits;
- descendants of the historic Metis who evolved in what is now western Canada as a people with a common political will;
- descendants of those aboriginal peoples who have been absorbed by the historic Metis.

2) The Metis community comprises members of the above who share a common cultural identity and political will.

3) There should be established an equitable process by which the members of the above should be enumerated and registered for the purposes of exercising and enjoying rights.

Summary of Metis National Council  
on Metis Rights in the Constitution

4) The above should be recognized as a distinct people and their rights should be enshrined in the Constitution of Canada and would be binding on the courts of the land.

**Metis National Council**

1) Land Base

- 1) As an aboriginal people who have been dispossessed of their land, the Metis need a land base if they are to survive and flourish as a distinct people, and have a right to a land base.
- 2) The ownership of Metis lands and resources would be vested in Metis government.
- 3) The form of land tenure on the Metis land base would be solely within the jurisdiction of Metis government.
- 4) Metis lands and resources would be exempt from taxation by other levels of government.
- 5) Lands should be transferred to Metis government through intergovernmental agreements which would be Constitutionally aligned under Section 35(2) of the Constitution Act.

Toronto, Ontario  
February 13-14, 1984

Summary of Metis National Council on Metis Rights  
In The Constitution

I Principles For An Agreement On Metis Self-Identification

- 1) The Metis are:
  - an aboriginal people distinct from Indians and Inuit;
  - descendants of the historic Metis who evolved in what is now western Canada as a people with a common political will;
  - descendants of those aboriginal peoples who have been absorbed by the historic Metis.
- 2) The Metis community comprises members of the above who share a common cultural identity and political will.
- 3) There should be established an equitable process by which the members of the above should be enumerated and registered for the purpose of receiving and enjoying rights and benefits under the Constitution of Canada.
- 4) The above principles should be embodied in a form unassailable by the Parliament of Canada and other governments and would be binding on the courts of the land.

II Land Base

- 1) As an aboriginal people who have been dispossessed of their land, the Metis need a land base if they are to survive and flourish as a distinct people, and have a right to a land base.
- 2) The ownership of Metis lands and resources would be vested in Metis government.
- 3) The form of land tenure on the Metis land base would be solely within the jurisdiction of Metis government.
- 4) Metis lands and resources would be exempt from taxation by other levels of government.
- 5) Lands should be transferred to Metis government through intergovernmental agreements which would be Constitution-  
alized under Section 35(3) of the Constitution Act.

III Metis Self-Government

A. Options for Self-Government

Option #1

- (1) This option would establish Metis government with its own areas of legislative jurisdiction entrenched in the Constitution.
- (2) The Constitution Act, 1982 would have to be amended to provide:
  - (a) for the recognition of the right to self-government for the Metis people, pursuant to which this government could be formally constituted; and
  - (b) for a listing of the legislative jurisdiction of Metis government. This listing would stipulate the same jurisdiction for all Metis governments.

Option #2

- (1) This option would establish Metis self-government in the Constitution, but the jurisdictional responsibilities of that government would be established through legislative delegation from federal and provincial governments.
- (2) The Constitution Act, 1982 would have to be amended:
  - (a) to provide for the recognition of the right to self-government for the Metis people, pursuant to which Metis governments could be formally constituted; and
  - (b) to allow federal and provincial governments to delegate legislative, as well as administrative, authority to Metis governments.
- (3) There are some basic elements associated with the concept of self-government which could be entrenched in the Constitution, one of the foremost being that the collectively-held property of the Metis be vested in Metis government.

Option #3

- (1) Under this option, a right to self-government would be included in the Constitution but the definition and specification of this right would be subject to detailed

negotiations culminating in a Constitutional Accord with the Metis people. This Accord would subsequently be constitutionalized, either in whole or in part, by attaching it as a Schedule to the Constitution Act, 1982.

- (2) The Constitution Act, 1982 would be amended:
  - (a) to provide for the recognition of the right of self-government for the Metis people, pursuant to which Metis governments could be formally constituted; and
  - (b) once the Constitutional Accord is negotiated, to add it as a Schedule to the Act.

#### B. Paramountcy

In our discussion on self-government, we agreed to examine this question. The following are proposed as paramountcy rules for all three options for legislative areas where Metis government would be granted concurrent jurisdiction.

- (1) Laws enacted by Metis government would apply only within the Metis land base.
- (2) In fields of concurrent jurisdiction, laws enacted by Metis self-government would take paramountcy over laws of general application enacted by other jurisdictions over the same matter; laws of general application would, however, continue to apply to the Metis lands to the extent that they were not in conflict with a Metis law.

With respect to Option One for self-government, we have considered whether any law validly enacted by another jurisdiction which, either by clear intent or explicit provision, is made to apply to the Metis land base would override Metis laws. To specify that federal and provincial laws would always take paramountcy over Metis laws would, in such circumstances, effectively preclude any possibility of original development on the part of Metis government. The question of federal paramountcy in case of a compelling national interest is a political question to be resolved at a political level. With respect to Option Two for self-government, in the event of federal or provincial governments amending delegated legislation, Metis consent would be required.