

"Delivery and Financing of Services
to Indians"
D. R. GOODWIN
(Manitoba Region)

1978

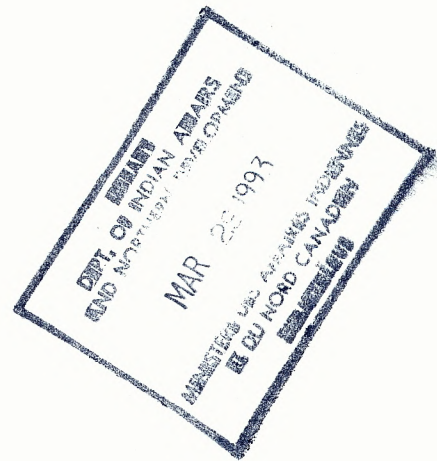
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INDIAN & INUIT AFFAIRS PROGRAM
MANITOBA REGION

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1978



I.B. COWIE
Director
Intergovernmental Relations
Corporate Policy Group
Indian & Inuit Affairs

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Manitoba Region

MANIT  BA

**Delivery and Financing
of Services to Indians**

**Honourable Sterling Lyon
Premier of Manitoba**

**Federal-Provincial
First Ministers' Conference on the Economy**

OTTAWA: November 27 to November 29, 1978

believe "the primary objectives of all parties in the upcoming negotiations should be to build up and improve our current arrangements -- ~~not~~ tear down the underlying financial framework of our Confederation."

- Western Finance Ministers and Treasurers will be meeting shortly under the chairmanship of the Honourable Hugh Curtis, the Minister of Finance for British Columbia, to follow-up the joint work which is now underway including consideration of options for western provincial tax harmonization. Since British Columbia will be hosting the 1981 Provincial Premiers' Conference, Mr. Curtis will also be suggesting to all his provincial colleagues that B.C. convene a ten-province meeting of Finance Ministers and Treasurers in the near future to discuss the Fiscal Arrangements and prepare a report and recommendations for submission to the ten Premiers at their August Conference.

The western provinces believe that the upcoming discussions of the Fiscal Arrangements, and particularly the assessment of any proposals for modifications to them, should be guided by the following key principles:

(1) Stability and predictability -- Stable, predictable transfers for health and post-secondary education programming were, in 1976, a primary goal of the Established Programs Financing Arrangements for both levels of government. While that goal appeared to have been achieved, the Federal Government is now threatening to introduce significant payment reductions which could seriously disrupt health and post-secondary programming as early as next year. The Premiers noted that when the E.P.F. arrangements were proposed in 1976, the Prime Minister had emphasized that a three years' notice provision would be included "...because the intention is to underline the relative permanence and stability of the arrangements." Subsequently, such a provision was built into the legislation and remains in effect.

(2) Flexibility and balance -- The fiscal equalization and E.P.F. programs should continue to ensure that all provinces have adequate fiscal capacity to maintain and improve the quality of key services.

(5)

**STATEMENT ON THE ENTRENCHMENT
OF A CHARTER OF RIGHTS
BY PREMIER STERLING LYON**

Prime Minister:

While Manitoba actively supports the protection of human rights, it opposes the entrenchment of a Charter of Rights on principle. Our opposition is not a bargain tactic designed to gain concessions elsewhere in these discussions. We, and other provinces, find entrenchment to be totally contrary to our traditional and successful Parliamentary government and thereby not in the best interests of Canadians.

We would suggest that the onus is on those who advocate change to demonstrate that change is needed, and that it will be beneficial, not harmful. With respect to the entrenchment of a Charter of Rights, we believe that onus has not — and cannot — be discharged.

The question before us is not whether the rights of individuals should be protected. All of us at this table are deeply committed to providing such protection.

Each of our governments — through such legislation as Human Rights Acts, Employment Standards Acts, Acts governing health and safety in the work place, and the kinds of measures to protect the rights of women and children that our Attorney General spoke of yesterday — has already taken real and substantive and effective steps to assure and protect the rights of our citizens.

The real question before us is how best to define and protect the rights of Canadians.

The system of Parliamentary responsible democracy which exists in Canada recognizes and protects the rights of our citizens on an evolving basis, without making judgments as to which rights are fundamental and which are of only secondary importance.

A decision to entrench a Charter of Rights, Prime Minister, would, in effect, move our familiar and traditional and successful Parliamentary form of government towards that of a republican system — replacing a system of protection of rights that has worked in Canada for 113 years with a system that, with respect, has not worked as well in the United States.

Infringements of what might be considered basic rights are rare in our history as a nation. The most obvious and most cited example — the treatment of Japanese-Canadians during the Second World War — was paralleled by similar treatment of Japanese-Americans, despite the fact that the U.S. has, and had, an entrenched Bill of Rights.

There is no historical justification for the entrenchment of a Charter of Rights in the Canadian Constitution. The need for such a fundamental change in our system cannot be demonstrated.

And apart from the absence of historical justification for this proposal, we oppose the concept on the basis of the following principles:

1. An entrenched Charter of Rights would remove the supremacy of Parliament and of Legislatures, which, because it leaves the determination and protection of rights in the hands of elected and accountable representatives of the people, is a cornerstone of our Parliamentary system of Government.
2. Parliament and Legislatures are better equipped to resolve social issues than judges who are not accountable to the people.
3. An entrenched Charter would involve the courts in political matters, a fact recognized by many jurists, including former Supreme Court Justice Pigeon, who has recently pointed out that entrenching a Charter of Rights, grants to the courts an important part of the legislative powers now vested in Parliament.
4. Entrenchment involves a loss of judicial impartiality and judicial independence — two cornerstones of our present respected judiciary.
5. Statute law, because it can be more easily amended, permits more flexible response to social and other changes so as to better protect the rights of citizens.
6. An entrenched Charter would encourage litigation with respect to legislation and introduce a dangerous element of uncertainty into the processes of government.
7. An entrenched Charter, by its inflexibility, would inhibit the development and acknowledgement of new rights, such as the rights of handicapped people, or the right to privacy.

Prime Minister, as Professor G. P. Browne of Carleton University has pointed out, such a "transfer of legislative authority would amount to a constitutional revolution, entailing the relinquishment of the essential principle of Parliamentary democracy: the principle of Parliamentary supremacy."

Let me reply briefly to the arguments advanced in favour of an entrenched Charter of Rights.

First — it is suggested that such an assertion of a commitment to fundamental rights serves to guarantee those rights.

But we all know that the vilest dictatorships can boast the most elaborate Bill of Rights. The real protection of rights lies in the commitment of people and governments to see them protected and enhanced — as they have been protected and enhanced in Canada through our Parliamentary form of government.

Secondly, it is argued that entrenchment of rights renders them immutable.

But Prime Minister, rights require interpretation, and every country with a Bill of Rights has been obliged to redefine the so-called “immutable” rights in response to social and other changes. The meaning of these so-called “immutable” rights is often far from clear. Even the most fundamental of all rights — the right to life — has been variously interpreted in accordance with varying opinions about abortion, euthanasia, and capital punishment.

Thirdly, it is argued that such an entrenched Charter has symbolic and educational value. We already enjoy these alleged advantages with our federal and provincial Bills of Rights.

Prime Minister, Bills of Rights define general rights in such eloquent terms as “freedom of religion” and “freedom of expression.” But what rights do such broad phrases actually confer, and by whom are they determined?

Does freedom of religion mean that we can no longer have prayers in schools? Does it mean that governments cannot combat cult activity? Does freedom of expression mean we cannot combat pornography or censor or classify films to reflect our community values? Does freedom of religion mean we can no longer exempt church property from taxation?

Of course, an entrenched Charter can recognize justifiable limitations to fundamental rights. But who decides what limitations are justifiable?

Once such a Charter is entrenched, these decisions will be made — not by the people themselves through their elected and accountable representatives — but by judges appointed by governments to serve until mandatory retirement age.

Throughout our history, Prime Minister, our rights have been protected by those the people elect to represent them. I can see no reason to transfer that function and responsibility to appointees who, however capable in their own

areas, are not involved with the consequences that recognition of rights has on economic resources, nor with the need for pragmatic compromises.

Prime Minister, you have described the entrenchment of a Charter of Rights as a mechanism that would give more power to the people. In fact, Sir, it takes power from the people and places it in the hands of men, albeit men learned in law, but not necessarily aware of every day concerns of Canadians.

The Canadian record on the protection of rights is enviable. We have not had the experience of our neighbours to the south, where judges create rights — on occasion in direct defiance of the people's elected and accountable representatives — and, in the process, dictate social policy. Nor have we had the experience of significant rights, entrenched in the constitution, inhibiting the development of new rights. For example, the right of Americans to bear arms has hindered the development of effective gun control legislation.

Their way would not suit us. Let us retain our own heritage and reject experiments with concepts foreign to our tradition.

In Canada, liberties are no less valued nor in practice less secure than in the U.S. Canadians have preferred to give ultimate responsibility for the protection of their rights to their elected representatives rather than to their judges.

It should not be overlooked that the most comprehensive study of human rights — the McRuer Commission in Ontario did not recommend the concept of entrenchment.

One also remembers the words of the former Premier of British Columbia, the Late W.A.C. Bennett, who, in discussing a similar proposal at a Constitutional Conference some twelve years ago, made the following observation:

“... even an incomplete study of these proposals reveals that we are being asked to discard the constitutional philosophy of 1867, and embrace the constitutional policy of 1776.”

As Professor Browne noted: Canadians must understand clearly what is at stake. The question is not whether we should have a Bill of Rights, but whether we should entrench it. This means, in practical terms, that we must decide whether to leave the ultimate responsibility for defining our civil liberties with the federal and provincial parliaments, or to hand it over to the Supreme Court.

Our constitutional history, governmental system, federal structure, cultural needs and social ideals, all dictate the answer. Our elected and accountable representatives must retain the ultimate authority to define and reflect our basic social values as a nation.

B I

STATEMENT ON INDIAN SERVICES

BY

THE HONOURABLE G. C. MINAKER
MINISTER OF COMMUNITY SERVICES AND CORRECTIONS
PROVINCE OF MANITOBA

FEDERAL/PROVINCIAL CONFERENCE OF MINISTERS
OF SOCIAL SERVICES

DECEMBER 8 & 9, 1980

OTTAWA

AT THIS CONFERENCE WE ARE REVIEWING SOME OF THE ISSUES ARISING IN THE HIGHLY ADVANCED SOCIAL SERVICE PROGRAMS PROVIDED ACROSS CANADA. THESE PROGRAMS ARE A POSITIVE AND CONCRETE INDICATION OF THE WILLINGNESS OF CANADIANS TO JOIN IN A SPIRIT OF SHARING TO PROVIDE FOR THOSE ELDERLY, DISABLED, FAMILIES AND CHILDREN IN NEED. THE SOCIAL SERVICES SYSTEM ALSO REPRESENTS A PRACTICAL APPLICATION OF FEDERAL-PROVINCIAL COOPERATION THROUGH THE CANADA ASSISTANCE PLAN.

IN MANITOBA, WE ARE PROUD THAT WE HAVE DEVELOPED OUR SYSTEM OF INCOME ASSISTANCE FOR THE ELDERLY, DISABLED, SINGLE MOTHERS AND OTHER FAMILIES AND INDIVIDUALS IN NEED; THAT WE HAVE COUNSELLING, REHABILITATION AND SOCIAL DEVELOPMENT PROGRAMS FOR THOSE WHO CAN BENEFIT FROM THEM; THAT WE HAVE A PROTECTION SYSTEM FOR ABUSED AND NEGLECTED CHILDREN. WE FEEL THAT OUR SOCIAL SERVICES,

TOGETHER WITH OUR EDUCATION, HEALTH, AND OTHER MANITOBA PROVINCIAL SERVICES, ARE FIRST RATE, AND THAT THEY MEET THE NEED IN GENERAL OF OUR POPULATION AND THAT THEY REFLECT THE SPIRIT OF HELPING AND SHARING WHICH IS VALUED IN CANADIAN SOCIETY. I AM SURE THAT ALL OTHER MINISTERS HERE HAVE SIMILAR FEELINGS ABOUT THEIR PROGRAMS.

YET, FOR ONE GROUP IN CANADA, REGISTERED INDIANS, THE EVOLUTIONARY DEVELOPMENT OF THE CANADIAN SOCIAL SERVICES SYSTEM HAS IN PART PASSED THEM BY AND THEIR NEEDS ARE NOT BEING MET. I KNOW, MADAME CHAIRMAN, THAT YOU ARE AWARE OF THE EXTENT TO WHICH INDIAN PEOPLE ARE CAUGHT IN A CYCLE OF POVERTY CHARACTERIZED BY LOW INCOMES, AN OVER-RELIANCE ON WELFARE, ILL-HEALTH, POOR EDUCATIONAL ATTAINMENT, UNEMPLOYMENT, AND THE LACK OF ADEQUATE HOUSING, FOOD AND OTHER MATERIAL COMFORTS WHICH AN ADEQUATE INCOME PROVIDES. THESE CONDITIONS FOSTER FRUSTRATION LEADING TO ALCOHOL

AND DRUG ABUSE, SICKNESS, VIOLENCE, FURTHER DETERIORATION IN FAMILIES AND COMMUNITIES, AND CHILD NEGLECT.

INDIANS ARE A FEDERAL RESPONSIBILITY. ANY ATTEMPT TO CHANGE THAT BASIC RELATIONSHIP, SUCH AS OCCURRED IN 1969, WILL BE VOCIFEROUSLY OPPOSED BY THE INDIAN LEADERSHIP. THE FEDERAL GOVERNMENT MUST GIVE UP ANY THOUGHTS IT MAY HAVE, THAT IT WILL BE ABLE AT THIS TIME, OR AT ANY TIME IN THE FUTURE, TO TRANSFER TO THE PROVINCES THE RESPONSIBILITY FOR THE INDIAN SITUATION WHICH HAS DEVELOPED THROUGH ONE HUNDRED AND THIRTEEN YEARS OF A FEDERAL TRUST RELATIONSHIP. NOR SHOULD THE FEDERAL GOVERNMENT CONTINUE TO LEAVE A VACUUM FOR INDIANS IN NEW SERVICE AREAS TO WHICH OTHER CANADIANS HAVE ACCESS, PERHAPS, WE SOMETIMES SUSPECT, IN THE HOPE THAT PROVINCES WILL BE FORCED TO STEP IN TO FILL IT.

I DO NOT WISH TO LEAVE THE IMPRESSION THAT I BELIEVE THE FEDERAL GOVERNMENT IS DOING NOTHING FOR INDIAN PEOPLE. PARTICULARLY DURING THE 1960s, NEW SERVICES WERE INTRODUCED FOR INDIANS WHICH WERE COSTLY, YET REMOVED SOME OF THE HARSHNESS OF INDIAN POVERTY. WE DETECT A REACTION AS THE FEDERAL GOVERNMENT REALIZED THE HIGH COST OF PROVIDING FOR THE EXCEPTIONAL NEEDS AND EXCEPTIONAL DEMAND FOR SOCIAL SERVICES FROM INDIAN PEOPLE WHO ARE SO VERY IMPOVERISHED.

WE DETECT AN ATTITUDE OF DISTRESS IN THE FEDERAL GOVERNMENT AT THE HIGH COST OF PROVIDING THESE SERVICES WHICH, AFTER ALL, DO LITTLE TO CURE THE PROBLEMS, BUT ONLY ALLEVIATE THE GREATEST HARDSHIPS OF INDIAN CONDITIONS. THIS DISTRESS HAS RESULTED IN BUDGETARY ACTION WHICH HAS RESULTED IN INDIAN PROGRAMS RECEIVING A SMALLER PERCENTAGE INCREASE THAN OTHER FEDERAL EXPENDITURE AREAS. IT HAS ALSO STOPPED THE PROGRESS IN DEVELOPING PROGRAMS FOR INDIANS

IN SOCIAL SERVICE AREAS TO MATCH THOSE RECEIVED BY THE REST OF CANADIAN SOCIETY. AND FINALLY, IT HAS FOSTERED AN APPARENT STRATEGY BY THE FEDERAL GOVERNMENT TO BACK AWAY FROM THEIR TRADITIONAL RESPONSIBILITIES FOR INDIANS AND TO DRAW IN PROVINCIAL GOVERNMENTS TO FILL IN THE GAPS.

YOUR GOVERNMENT'S APPARENT STRATEGY HAS HAD SOME SUCCESS IN THE PAST. A GREAT PORTION OF HEALTH SERVICES AND POST-SECONDARY EDUCATION FOR ALL INDIANS IS NOW PROVIDED BY PROVINCIAL GOVERNMENTS, ALBEIT WITH PARTIAL FUNDING THROUGH FEDERAL CONTRIBUTION AGREEMENTS. MORE CONSPICUOUSLY, THE FEDERAL GOVERNMENT HAS VIRTUALLY WASHED ITS HANDS OF ANY ONGOING COMMITMENT TO MEET THE NEEDS OF THE RAPIDLY GROWING NUMBERS OF INDIANS RESIDING OFF-RESERVE: INDIANS WHOSE EXCEPTIONAL NEEDS DO NOT CHANGE WITH THEIR CHANGE OF ADDRESS WITH THE CONSEQUENCE THAT THEY FREQUENTLY FORM ONE-HALF OF THE URBAN CASELOADS OF VARIOUS SOCIAL AGENCIES IN WINNIPEG.

PROVINCES WITH LARGER PROPORTIONS OF NATIVES - MANITOBA AND SASKATCHEWAN IN PARTICULAR - ARE FACING EXCEPTIONAL SERVICE LOADS IN VIRTUALLY ALL SERVICE AREAS. MADAME CHAIRMAN, WE ESTIMATE THAT THE GOVERNMENT OF MANITOBA CURRENTLY SPENDS IN THE RANGE OF \$142 MILLION A YEAR SERVING THE NEEDS OF INDIAN PEOPLE IN THE PROVINCE. OF THIS AMOUNT, ONLY \$36 MILLION IS RECOVERED THROUGH DIRECT FEDERAL COST-SHARING THROUGH PROGRAMS SUCH AS C.A.P., THE R.C.M.P. AGREEMENT, D.R.E.E. AND C.E.I.C. AGREEMENTS AND PAYMENTS AND THE LIKE. USING THE MOST LIBERAL INTERPRETATIONS OF FINANCIAL ARRANGEMENTS, ANOTHER \$80 MILLION MAY BE RECEIVED FROM DIRECT TAXATION OF INDIANS BY THE PROVINCE, ITS MUNICIPALITIES AND SCHOOL DIVISIONS, OR ON BEHALF OF THE INDIAN POPULATION THROUGH VARIOUS GENERAL PURPOSE TRANSFERS, BUT THESE MUST SURELY BE REGARDED AS MUCH AS PROVINCIAL FUNDS CONTRIBUTED TO INDIAN PROGRAMS AS THEY ARE CONSIDERED TO BE FEDERAL TRANSFERS ON BEHALF OF INDIANS.

THE GOVERNMENT OF MANITOBA WISHES TO MAKE CLEAR TO THE FEDERAL GOVERNMENT THAT WE ARE NOT PREPARED TO ALLOW THIS TREND TOWARD ABROGATION OF FEDERAL RESPONSIBILITIES TO INDIANS TO CONTINUE, AND IN PARTICULAR, WE ARE NOT PREPARED TO MOVE INTO MORE AREAS OF SERVICE DELIVERY AGAINST THE EXPRESSED WISHES OF INDIAN PEOPLE.

I AM ALSO AWARE THAT MANY INDIAN LEADERS HAD HOPED THAT DURING THE PROCESS OF CONSTITUTIONAL RENEWAL A NEW FRAMEWORK FOR FEDERAL-INDIAN RELATIONS WOULD DEVELOP IN WHICH LOCAL INDIAN GOVERNMENTS COULD CARRY OUT NOT ONLY THE DAY-TO-DAY ADMINISTRATION, BUT THE FULL PLANNING AND DELIVERY OF MANY OF THESE SOCIAL PROGRAMS. THIS IS UNLIKELY TO OCCUR IMMEDIATELY, AND EVEN IF PROGRESS IS MADE TO DEVELOP LOCAL INDIAN GOVERNMENT, I SEE MANY DIFFICULTIES UNLESS INDIAN BANDS ARE PROPERLY FUNDED AND SERVICE DELIVERY IS INTEGRATED WITH THE SERVICES IN OTHER COMMUNITIES.

I HAVE BRIEFLY REVIEWED THE PAST AND CURRENT EFFORTS MADE BY THE FEDERAL GOVERNMENT, PROVINCIAL GOVERNMENTS AND INDIAN BANDS. IT IS OUR POSITION THAT SOME NEEDS REMAIN UNSERVED AND THAT THE PRIMARY RESPONSIBILITY REMAINS WITH THE FEDERAL GOVERNMENT. WE EXHORT THE FEDERAL GOVERNMENT TO MEET THOSE NEEDS. WE ENCOURAGE THE DEVELOPMENT OF GREATER INDIAN BAND AUTONOMY WHERE POSSIBLE IN ORDER THAT INDIAN COMMUNITIES CAN PLAY THE LARGEST ROLE IN MEETING THEIR OWN NEEDS. FINALLY, WE OFFER TO PLAY A ROLE AS WELL. ON RESERVES, IN SITUATIONS WHERE IT IS MOST DESIRABLE AND INDIAN PEOPLE ACCEPT OUR ROLE, WE ARE PREPARED TO OFFER OUR SERVICES IF ACCEPTABLE FINANCIAL COMPENSATION CAN BE NEGOTIATED WITH THE FEDERAL GOVERNMENT. OFF-RESERVE, WHERE NATIVES FORM 50% OF CASELOADS OF MANY COMMUNITY SERVICE AND CORRECTIONS PROGRAMS, WE WOULD LIKE TO SEE A CONCRETE RECOGNITION OF SOME CONTINUING FEDERAL RESPONSIBILITY TO ALLEVIATE THE EXCEPTIONAL NEEDS OF THIS GROWING GROUP OF PEOPLE.

IN MANITOBA THERE IS ONE SPECIFIC PROGRAM WHICH DESERVES IMMEDIATE ATTENTION. FOR THE PAST FEW YEARS, TRIPARTITE STUDY AND NEGOTIATIONS HAVE BEEN DIRECTED TOWARD THE DEVELOPMENT OF AN INDIAN CHILD WELFARE SYSTEM. THE BASIS FOR AGREEMENT ON INDIAN CHILD WELFARE SERVICES HAS BEEN ACCEPTED BY ALL NEGOTIATING PARTIES, THE PROVINCE OF MANITOBA, THE FEDERAL GOVERNMENT AND THE FOUR NATIONS CONFEDERACY REPRESENTING THE INDIAN PEOPLE OF MANITOBA. IT IS, I BELIEVE, THE FIRST TIME SUCH A PROCESS OF COMPREHENSIVE STUDY, PLANNING AND NEGOTIATIONS HAS BEEN SUCCESSFUL IN CANADA. YET THE AGREEMENT HAS NOT BEEN COMPLETED FOR APPARENTLY TWO REASONS: THE FEDERAL INDIAN AFFAIRS BUREAUCRACY HAS NOT RESPONDED IN AN ADEQUATE FASHION TO COMPLETE THE TASKS AT HAND; AND THERE ARE ON-GOING CONCERNS ABOUT A LACK OF FUNDING TO IMPLEMENT THE FULL PROGRAM. THE TENTATIVE AGREEMENT PROVIDES FLEXIBILITY FOR PHASING IN IMPLEMENTATION, SO THAT SHOULD NOT BE A PROBLEM IF THE

FEDERAL GOVERNMENT IS COMMITTED TO THE PROGRAM AS THEY HAVE
STATED DURING NEGOTIATIONS. THEREFORE, I ASK THE FEDERAL
MINISTERS TO REVIEW IMMEDIATELY THE STATUS OF THIS TENTATIVE
AGREEMENT WHICH I BELIEVE IS A MOST SIGNIFICANT BREAKTHROUGH
IN ONE OF THE MORE SERIOUS AND PERPLEXING AREAS OF INDIAN NEEDS.

FEB 02 1981

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MANITOBA

MINISTER OF COMMUNITY SERVICES AND CORRECTIONS

W. H. HEG, MANITOBA
ESC 0V8

January 30, 1981.

The Honourable J.C. Munro,
Minister,
Department of Indian and Northern
Affairs Canada,
Room 21,
Les Terrasses de la Chaudiere,
10 Wellington,
Ottawa, Ontario.
K1A 0H4.

My dear Minister:

RE: Manitoba Indian Programs

Your attendance at our Federal-Provincial Conference of Ministers of Social Services was greatly appreciated.

As a result of your comments during the Conference, I look forward to strengthening tripartite discussions in Manitoba on a variety of outstanding issues in the delivery of programs to Registered Indians. In particular, I am pleased that you are committed to the signing of a Manitoba Indian Child Welfare Agreement before March 31, 1981. As you indicated, this Agreement will cover services to only those Indians resident on-reserve and those who have not been self-supporting for a year while living off-reserve. Particularly important, in addition to signing the Agreement, is your commitment to provide some funding to partially implement the programs in the 1981-82 fiscal year.

At this time, I might suggest two additional items for tripartite consideration in the New Year. Firstly, in 1981 the Manitoba Government is implementing a Child Related Income Support Program (CRISP). Our position is that income assistance programs for Indians on reserve must remain a federal government responsibility, and therefore, initially, on-reserve Indians will be ineligible for the program. However, the federal government may desire that Indians receive assistance benefits comparable to those received by other residents of the province, and we are prepared to extend the CRISP program to all Indian families if reimbursement from the federal government can be received in accordance with your acknowledged responsibilities for on-reserve Indians.

Secondly, the Government of Manitoba would be interested in receiving additional and concrete information on the manner in which funds of various federal Departments will be directed in support of off-reserve Indians. Perhaps at some stage other federal Departments might participate in the tripartite discussions in addition to the Department of Indian and Northern Affairs.

I assure you that your attention to these matters will be matched by myself and my government colleagues for the benefit of the Indian people of Manitoba.

Yours sincerely,

ORIGINAL SIGNED BY
G. C. MINAKER

G. C. Minaker

c.c. Lyle Longclaws
Grand Chief
Four Nations Confederacy

b.c.c. Premier S. Lyon
Honourable D. Craik
Honourable B. Ransom
R.D. Johnstone

~~Frank Neumann~~

Table 4

UTILIZATION OF MEDICAL SERVICES BY MANITOBA INDIAN BANDS - REGIONAL SUMMARY - 1973/79

Region	Population as of Dec. 1/78	No. of Discrete Patients	No. of Services	Cost	No. of Patients Per 1000 Population	No. of Services Per 1000 Population	Cost Per 1000 Population
Central	3,371	2,664	19,672	\$ 200,821.21	790	5,836	\$59,573
Eastman	6,754	5,110	47,023	461,414.72	757	6,962	68,317
Interlake	6,780	5,686	48,042	492,864.57	839	7,086	72,694
Norman	20,042	14,572	108,994	1,201,239.85	727	5,438	59,936
Parkland	2,833	2,508	29,332	263,378.21	885	10,354	92,968
Westman	2,923	2,482	22,233	230,881.83	849	7,606	78,988
TOTALS	42,703	33,009	275,296	\$2,850,600.39	773	6,447	\$66,754

Table 5

UTILIZATION OF MEDICAL SERVICES BY MANITOBA INDIAN BANDS - PROVINCIAL SUMMARY BY DIAGNOSTIC CATEGORY - 1978/79

Diagnostic Category	Total Number of Discrete Patients	Total Number of Services	Total Cost	Number of Patients Per 1000 Population	Number of Services Per 1000 Population	Total Cost Per 1000 Population
INF PARASITIC DIS	5,902	19,811	\$ 144,946.32	138	464	\$ 3,394
NEOPLASMS	516	2,750	38,457.38	12	64	901
ENDO NUTRIT METAB DIS	1,971	10,762	78,000.16	46	252	1,827
DIS BLOOD	925	2,840	21,347.03	22	67	500
MENTAL DISORDERS	2,577	8,479	73,531.32	60	199	1,722
NERVOUS SYSTEM	12,549	26,039	317,030.37	294	610	7,424
CIRCULATORY DIS	2,189	11,881	112,360.03	51	278	2,631
RESPIRATORY DIS	11,760	50,053	401,483.82	275	1,172	9,402
DIGESTIVE DIS	3,813	10,493	187,493.02	89	246	4,391
GENITOURINARY DIS	5,202	18,403	208,185.23	122	431	4,875
OBSTETRICAL COND	1,688	5,967	249,163.60	40	140	5,835
SKIN & S C DIS	6,811	17,269	146,274.88	159	404	3,425
MUSCULOSKELETAL DIS	2,803	8,108	78,023.15	66	190	1,827
CONGENITAL ANOMALIES	578	1,624	35,012.57	14	38	820
PERINATAL DIS	276	1,870	13,298.41	6	44	311
ILL-DEFINED CONDITIONS	8,289	23,803	215,357.33	194	557	5,043
ACCIDENTS POISONINGS	9,729	30,341	351,147.50	228	711	8,223
SPECIAL CONDITIONS & INFANTS	7,546	21,428	157,996.83	177	502	3,700
LABORATORY AND XRAY	1,058	3,375	21,491.59	25	79	503
TOTALS	33,009	275,296	\$2,850,600.39	773	6,447	\$66,754

TOTAL POPULATION 42,703

Excerpt from the Presentation to the Health Services Review,
Mr. Justice Emmett Hall, Chairman by
The Hon. L. R. Sherman
March 20, 1980

The current Federal financial arrangements also fail to make any special allowance for NATIVE HEALTH SERVICES - an ongoing concern of the Manitoba Government.

In September 1979, the federal government stated that federal Indian health policy was based on three principles: the socio-economic, cultural and spiritual development of Indian communities, a traditional relationship between Indian people and the federal government; and the totality and inter-relation of the entire Canadian health system.

In December 1979, the federal government's "Indian Health Discussion Paper" outlined assumptions, objectives and strategies for Indian health policy, recognizing that conditions encountered by natives in

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INDIAN HEALTH -
CONDITIONS AND COSTS

The Indian population in Manitoba and the rest of Canada has suffered from ill-health and consequent exceptional usage of health services whenever services were available. High rates of infections and parasitic diseases, diseases of the respiratory system and injuries and poisonings have been linked to:

- 1) the lack of public health preventative programs;
- 2) poor water and sanitation systems and poor housing on reserves;
- 3) alcohol abuse; and
- 4) native lifestyles.

In the 1960's Indian per capita utilization of health services was in excess of twice the national average for the entire Canadian population. Indian health service usage in Manitoba was no exception. However, some progress was made in the decade between 1965 and 1975 and rapid improvements in Indian health in Manitoba appear to have been made in the last five years. For example, hospital patient days used by Indians has dropped from 170% to 140% of the general population on a per capita basis between 1975 and 1979/80. Thus, exceptional usage is only 40% compared to 70% in 1975 and more than 100% in the 1960's. (See Tables 1, 2 and 3).

The Manitoba Health Services Commission has identified an average of 43,363 Indians who utilized 92,538 hospital days in fiscal year 1979/80. Some Indians were not identified as such on the M.H.S.C. files. Extrapolating these numbers to include the total 46,400 Indians resident in Manitoba and utilizing the average per diem cost for hospitals in Manitoba, the cost to the province for providing hospital services to Indians is estimated at close to \$18 million for fiscal year 1979/80. The 1978/79 cost of providing medical services to identified Indians was \$2.85 million (See Tables 4 and 5). Extrapolating this cost to the entire Indian population for 1979/80 would add a further \$3.5 million to provincial health costs for Indians. The total of \$21.5 million does not include provision for expenditures on M.H.S.C. administration, personal care homes, Pharmacare, the ambulance program, northern patient transport not

reimbursed by the federal government, institutional mental health services or community health programs.

An ongoing concern, particularly felt in the Western provinces, is the needed improvement in the economic and related social conditions of our Indian citizens. The constitutional responsibility to act lies with the federal government. Yet, piecemeal but increasingly, the cost of provision of services is being transferred to the provinces.

A primary example is the Medicare program. When it was implemented in 1967, provinces made provision for Indian eligibility for benefits under the plan. Though there was a heavy expenditure involved, one-half was to be recovered through federal cost-sharing and Indian health premiums were to be paid by the federal government. When premiums were dropped by Manitoba in 1973, the Province was unsuccessful in receiving compensating income from the federal government for their former contribution to Indian health, a contribution (through premiums) which they were still making in other provinces. When Medicare cost-sharing was changed to the Established Programs Funding basis, a further element of federal 50% cost-sharing of exceptional Indian health costs was lost. Currently in 1980/81, the Province of Manitoba will spend an estimated \$25 million on Indian health care with no special cost-sharing from the federal government. Indian health care in Manitoba is turning into a happier picture for Indian people as a combination of preventative and basic health programs have resulted in a sharp decrease in exceptional health problems in Indian communities, but federal practices often ignore and make a mockery of their special constitutional responsibility for Indians.

Table 1

HOSPITAL UTILIZATION BY STATUS INDIANS IN MANITOBA
TOTAL DAYS BY CAUSES

Category	Name of Illness	1974	1975	1976	1977	1978/79	1979/80
01	Infectious & Parasitic Diseases	15,474	12,619	13,320	13,031	9,302	4,683
02	Neoplasms	1,716	1,324	2,465	1,990	2,646	1,951
03	Endocrine & Metabolic Diseases	2,391	2,523	3,505	4,082	3,217	2,645
04	Diseases of Blood & Blood Forming Organs	656	662	494	418	522	390
05	Mental Disorders	2,089	2,574	2,392	2,089	2,938	2,212
06	Diseases of Nervous System and Sense Organs	3,903	4,569	7,447	4,040	3,553	4,683
07	Diseases of Circulatory System	3,972	6,175	6,710	6,391	5,071	5,550
08	Diseases of Respiratory System	25,255	24,532	25,258	22,968	22,067	20,251
09	Diseases of Digestive System	5,123	4,671	5,028	5,794	6,068	8,586
10	Diseases of Genitourinary System	4,420	3,572	4,250	3,374	3,410	3,773
11	Pregnancy, Childbirth, Puerperium	9,894	9,270	10,415	10,903	11,072	11,188
12	Diseases of Skin & Subcutaneous Tissue	4,053	4,172	5,097	4,494	3,875	3,382
13	Diseases of Musculoskeletal System and Connective Tissue	2,338	2,678	2,796	2,498	2,637	2,689
14	Congenital Anomalies	2,055	2,082	1,397	2,310	1,660	1,388
15	Conditions Originating in Perinatal Period	1,755	1,599	2,205	2,360	2,501	781
16	Symptoms & Ill Defined Conditions	2,733	2,801	3,524	3,590	3,638	3,773
17	Injury & Poisoning	12,759	10,331	11,790	12,018	12,626	12,272
18	Factors Influencing Health Status and Contact with Health Services	7,105	7,311	6,654	7,424	6,162	2,472
	TOTAL	107,691	103,465	114,747	110,494	102,965	92,538*

* Total days calculated from rounded numbers resulting in minor difference between total of categories and total days.

Table 2

HOSPITAL UTILIZATION BY STATUS INDIANS IN MANITOBA

		DAYS PER 1,000 POPULATION					
Population		1974	1975	1976	1977	1978/79	1979/80
		as of December 31					
		34,800	36,144	40,938	41,706	42,703	43,363
Category	Name of Illness	1974	1975	1976	1977	1978/79	1979/80
01	Infectious & Parasitic Diseases	445	349	325	312	218	108
02	Neoplasms	49	37	60	48	62	45
03	Endocrine & Metabolic Diseases	69	70	86	98	75	61
04	Diseases of Blood & Blood Forming Organs	19	18	12	10	12	9
05	Mental Disorders	60	71	58	67	69	51
06	Diseases of Nervous System and Sense Organs	112	126	182	97	83	108
07	Diseases of Circulatory System	114	171	164	153	119	128
08	Diseases of Respiratory System	726	679	617	551	517	467
09	Diseases of Digestive System	147	129	123	139	142	198
10	Diseases of Genitourinary System	127	99	104	81	80	87
11	Pregnancy, Childbirth, Puerperium	284	256	254	261	259	258
12	Diseases of Skin & Subcutaneous Tissue	116	115	125	108	91	78
13	Diseases of Musculoskeletal System and Connective Tissue	67	74	68	60	62	62
14	Congenital Anomalies	59	58	34	55	39	32
15	Conditions Originating in Perinatal Period	50	44	54	57	59	18
16	Symptoms & Ill Defined Conditions	79	77	86	86	85	87
17	Injury & Poisoning	367	286	288	288	296	283
18	Factors Influencing Health Status and Contact with Health Services	204	202	163	178	144	57
TOTAL - Indian		3,094	2,861	2,893	2,649	2,411	2,134
TOTAL - All Manitobans		1,745	1,637	1,676	1,610	1,607	1,532

Table 3

STATUS INDIANS' AND OTHER MANITOBIANS' HOSPITAL PATIENT DAYS

PER 1,000 POPULATION BY DIAGNOSIS, 1979/80

Diagnostic Categories ¹	Status Indians' Days Per 1,000 Population	Other Manitobans' Days Per 1,000 Population
Infectious & Parasitic Diseases	108	31
Neoplasms	45	153
Endocrine & Metabolic Diseases	61	40
Diseases of Blood & Blood Forming Organs	9	8
Mental Disorders	51	106
Diseases of Nervous System and Sense Organs	108	60
Diseases of Circulatory System	128	311
Diseases of Respiratory System	467	109
Diseases of Digestive System	198	133
Diseases of Genitourinary System	67	79
Pregnancy, Childbirth, Puerperium	258	94
Diseases of Skin & Subcutaneous Tissue	78	19
Diseases of Musculoskeletal System & Connective Tissue	62	81
Congenital Anomalies	32	10
Conditions Originating in Perinatal Period	18	3
Symptoms & Ill Defined Conditions	87	47
Injury & Poisoning	283	134
Factors Influencing Health Status & Contact with Health Services	57	114
T O T A L :	2,134	1,532

SOURCE: M.H.S.C. Hospital Table 25, "Hospital Cases and Days, Summary for all Hospitals", 1979/80.

¹ I.C.D.A. 9th Revision.

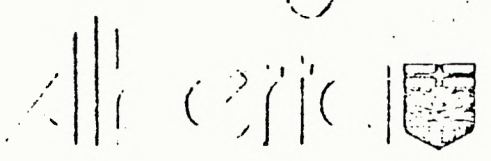
M.H.S.C.,
M.H.S.C.

their home communities and upon migrating to urban areas, must be improved to match those of the general population.

Over the years, the federal acknowledgement of the basic causes of native ill-health has not been matched by action. Federal housing, sanitation and economic development programs on reserves has been sporadic, and generally ineffective; the federal government continues to ignore its special responsibilities to Indians migrating to urban areas; and since the introduction of hospitalization and medicare programs, there has been a rapid shift of responsibilities for Indian health from the federal government to the provinces. Demographic trends and federal policies and administrative regulation will continue this trend. At the present time, there is no recognition by the federal government that these policies present serious problems for those provinces with large proportions of the native population - Manitoba and Saskatchewan in particular.

Manitoba proposes that consideration be given to establishing a national program of Indian health, emanating from the traditional federal responsibility for natives, and offering, where appropriate, necessary access to provincial health services under the umbrella of federal responsibility.

Without a truly national thrust, with a clear definition of responsibility, the trends indicate that Manitoba and Saskatchewan will be labouring under a disproportionate responsibility for treating and preventing Indian ill-health.



NATIVE AFFAIRS

Office of
the Minister

403/427-2572

229 Legislative Building
Edmonton, Alberta, Canada

TSK 286

May 28, 1979

Hon. L. Allan Williams
Minister of Labour
Government of
British Columbia

Hon. Gordon S. MacMarchy
Minister of Municipal Affairs
Government of
Saskatchewan

Hon. G. R. (Ted) Bowerman
Minister of Environment
Government of
Saskatchewan

Hon. A. Brian Ransom
Minister of Mines, Resources
and Environment Management
Government of Manitoba

Dear Mr. Minister:

RE: MINISTERIAL MEETINGS ON INDIAN MATTERS

The enclosed document has been agreed to and signed by the Ministers of each of the four Western Provinces responsible for Indian matters and affairs.

I will be forwarding this document to my Premier, Hon. Peter Lougheed, for his information for future meetings between the First Ministers. You may wish to do the same so that our Premiers will know our joint thoughts with respect to Indian matters regarding Western Canada.

Yours sincerely,

Don McCrimmon
Minister Responsible
For Native Affairs

cc: Hon. Peter Lougheed
Premier of Alberta

*bcc: Hon Dick Johnston
Carl Lee*

- 1.2. Part (b) of Section 25 is difficult to grasp since it purports to guarantee the entrenchment of certain rights or freedoms that as yet do not exist; rights and freedoms which may be acquired as a result of subsequent developments.
 - 1.3. Section 25 identifies highly generalized rights and freedoms which, the Federal government suggests, will be refined and specified following patriation. It is further suggested that such detailed interpretations will be secured through a negotiated settlement.
 - 1.4. The Royal Proclamation, particularly as it relates to, "...those territories held by the Hudson's Bay Company under its Charter ..." is open to wide interpretation as to the meaning of Indian sovereignty, Indian government, and traditional land rights covering hunting, fishing, trapping, and gathering.
2. Section 33:
- 2.1. Clearly section 33 lacks substance and thereby is easily subject to varying interpretations.
 - 2.2. Subsection 2 omits any reference to "non-status Indian".
 - 2.3. This section invites, or assures, determination by the courts as to the meaning and nature of treaty or aboriginal rights. Such an eventuality would clearly nullify the role of Provincial governments, the Federal government, and that of the Indian/Natives themselves in securing settlements or consensus outside of the courts.
 - 2.4. Once again the proposal presumes to affirm and entrench those rights and freedoms which have yet to receive recognition or concurrence thereon.

FEDERAL CONSTITUTIONAL INITIATIVES:

I. The Federal government has tabled to Parliament, within the Canada Act, the following proposals respecting Indian/Native rights:

1. PART I: Charter of Rights

Section 25:

Aboriginal Rights
and Freedoms not
Affected by
Charter

"The guarantee in this charter of certain rights and freedoms shall not 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 including:

- a) Any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
- b) Any rights or freedoms that may be acquired by the aboriginal peoples of Canada by way of land claims settlement.

2. PART II: Rights of the Aboriginal Peoples of Canada:

Section 33:

Recognition of
Aboriginal and
Treaty Rights.

subsection 1 - "The aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed".

subsection 2 - "In this Act, 'Aboriginal Peoples of Canada' includes the Indian, Inuit, and Metis peoples of Canada."

II. Issues and Implications:

1. Section 25:

1.1. *This section presumes and refers to existing rights and freedoms without articulating what this means other than references contained within the Royal Proclamation.*

- reserved lands
- surrender or sale only with Indian consent
- confirmed Indian usufructory interest in lands outside reserved lands
- Crown established as ultimate proprietor and sovereign law-making authority
- No provision made for government

Most provinces report millions of dollars in unpaid bills. Federal practices with respect to financing social services appear somewhat arbitrary and DIAND's willingness to reimburse the province for services differs from province to province. For example, DIAND recognizes 100% of all child care costs in British Columbia but is refusing to pay most child care bills in Manitoba and Saskatchewan. Conversely, DIAND is now paying nursing home costs in Saskatchewan and Ontario but is failing to recognize this responsibility in most other provinces. It was noted by provinces that where a non-government community social services agency bills DIAND directly their chances of cost recovery are better.

6. Related Problems

The major problem of the federal government refusing to accept its constitutional and financial responsibilities for Indian people is expressed in a number of related ways. Examples include:

- (i) an inadequate budget for DIAND to begin to provide equivalent or new services to Indian people;
- (ii) termination and cutbacks in DIAND services;
- (iii) transfer of administration and delivery of social programs to bands with inadequate resources;
- (iv) unilateral termination of payments to provinces for some services and inadequate payments to provinces for others;
- (v) failure to recognize program responsibility for off-reserve Indians in many instances;
- (vi) lack of adequate social assistance appeal mechanisms for Indian people;
- (vii) negligible capital expenditure for needed on-reserve services such as for group homes, senior citizens programs, etc.;
- (viii) artificial financial ceilings on programs shared under special agreements and limitation of scope of agreements where agreements exist (i.e. Ontario).

CONCLUSIONS

The working committee of officials concluded that provincial Social Services Ministers have a number of goals in common with respect to Indian services and that Ministers may want to pursue joint action with the Federal Government.

tends to reinforce integration or assimilation of Indians into the non-Indian population. At the same time, Indians feel that they are entitled to programs as extensive and of similar quality as are other Canadians. Indians would prefer to have control over the delivery of social services programs and that provincial involvement be at their request.

3. Federal Attempts to Transfer its Indian Responsibilities

Most provinces report continued attempts by the Federal Government to transfer its responsibility for Indians to the provinces. In the past 10 years Indian Affairs (DIAND) expenditure has dropped to 1.38% of total federal government expenditure from 1.48% of total federal expenditure. Total expenditure on all programs for Indians remains at about 1.7% of all federal government expenditure. During this 10-year period the registered Indian population increased by about 30% (from 250,000 to 320,000), growing faster than the general population. The federal government has, therefore, in fact, cut back on Indian programs as a relative priority to other expenditures.

4. Social Services Received by Indians

Despite the fact that services to Indians are seen as a federal responsibility, all provinces are involved to some extent in the delivery of social services to Indians particularly when an Indian resides off-reserve. While services on-reserve are still for the most part provided through DIAND, some exceptions exist, such as Ontario's special agreement to deliver on-reserve services. Other provinces extend a few services to reserves such as emergency child welfare, community programs in certain instances, and the occasional income supplement program for the elderly. Provinces agreed that where the federal government is providing services on-reserve it does not extend a level of services to Indian people equivalent to provincial services. This is substantiated by the federal study on Indian Conditions. For example, when a province develops a new service such as home care, DIAND does not necessarily make this available to Indian people.

5. The Financing of Social Services

In instances where provinces are delivering social services to registered Indians all provinces expect, but are not receiving 100% reimbursement from the Federal Government.

SOCIAL SERVICES TO REGISTERED INDIANS

BACKGROUND

Provincial Ministers of Social Services last September requested information on the provision and financing of social services to registered Indians. Subsequently the Province of Quebec surveyed other provinces and compiled general information on federal-provincial financing agreements pertaining to social services to Indian people. Quebec found that existing federal agreements with provinces were inadequate and differed from province to province. Quebec presented a brief report reflecting these findings to the June, 1980 meeting of Deputy Ministers held in Whitehorse.

At the Whitehorse meeting, Deputy Ministers expressed concern about the current situation where the federal government is not fulfilling its responsibilities in the delivery of social services to Indian people and requested further work on behalf of the Ministers on this matter.

A committee chaired by Saskatchewan which also included British Columbia, Alberta, Manitoba, Ontario, and the Yukon was instructed to prepare a document outlining the issues and making recommendations for the Fredericton conference of provincial Social Services Ministers. The working committee was to focus specifically on the situation in the western provinces including Ontario and the Yukon but refer also to the national material compiled by Quebec.

SUMMARY OF FINDINGS

The attached chart summarizes the situation of Indian social services in the four western provinces, Ontario and the Yukon. In examining this information and the information collected earlier by Quebec it was found that there are common factors which can be generalized to the rest of the country. These are:

1. Constitutional Responsibility

Provinces are in agreement that the Federal Government under Section 91(24) of the BNA Act has responsibility for Indians. This responsibility includes registered Indians living on or off reserve.

2. Indian Aspirations

Generally Indians will not accept any position which diminishes what they understand to be the federal government's comprehensive responsibility for Indians or any program that

Saskatchewan
Social Services

Associate
Deputy Minister

1920 Broad Street
Regina, Canada
S4P 0A6

(306) 565-7357

September 4, 1980

TO ALL PROVINCIAL DEPUTY MINISTERS OF SOCIAL SERVICES

Attached is material prepared by officials of the four western provinces, Ontario and the Yukon on Social Services to Treaty Indians, for the Fredericton meeting of Social Services Ministers.

This item is on the agenda on the first morning of the conference. As agreed, Saskatchewan will be responsible for the presentation of this item on behalf of the provincial officials involved in its preparation. It should be noted that the paper and all supporting materials are for discussion purposes only. Any subsequent steps require the agreement of the ministers concerned, and such consultation with their cabinet colleagues as they may feel to be necessary.

Sincerely,



R. S. Hikel

cc: All Provincial Ministers of Social Services

TREATY
ENTITLEMENTS
AND CLAIMS

29. As noted previously, a central direction identified in the D.I.N.A. Directional Plan concerns the resolution and settlement of outstanding entitlements and claims. Movement in this direction has already occurred: a policy on comprehensive claims was approved by the Federal cabinet early this year and it is expected that a policy on specific claims will be submitted for approval within the next few months. Underlying this general thrust are two considerations: (1) removing basic grievances with respect to Indian lands and other assets, and (2) reducing the economic and social dependence of native people on government assistance.

IMPLICATIONS
FOR PROVINCES

30. With the adoption of the goal of reducing dependence through claims settlement, the concept of "adequate economic base" has been introduced. The implication is that future negotiations around "contemporary" settlements will entail a broader package than was the case historically. Furthermore, it is possible that the entrenchment of aboriginal rights will have implications where land claims are settled through litigation.

E. CONCLUSION

31. This discussion has attempted to identify emerging conditions resulting from Indian aspirations and proposed Federal directions. What is clear is that the situation which is evolving will impact both directly and indirectly on Provincial governments. The choice for Provinces is either to continue to react independently to situations as they emerge or to begin, together, to discuss in a serious manner their appropriate roles and responsibilities which, in the future, will be consistent both with their own interests and those of the Indian people.

CONSTITUTION
AND ABORIGINAL
RIGHTS

26. On January 30, 1981, all three parties in the House of Commons agreed to an amendment which would entrench treaty and aboriginal rights in the federal government's proposed constitutional package. While Indian leaders' viewed this agreement as a major concession, there are some serious problems with the amendment.

PROBLEMS WITH
AMENDMENTS

27. The most serious problem is that no adequate and commonly acceptable definition of aboriginal rights exists. In this regard, two approaches are possible. The first would entail a negotiated definition of what aboriginal rights would include. Indian and Inuit leaders have indicated their view that this would be the preferred approach. However, there are no guarantees that either the federal government or provinces would be willing to enter into negotiations or that agreement could be achieved. Should agreement not be possible, recourse would then be to the courts.

POTENTIAL
IMPLICATIONS
FOR THE
PROVINCES

28. In the event that the courts should decide on the basis of the intent of the constitutional article, rather than on the basis of precedent, discussions with respect to ownership, hunting, trapping and fishing rights, etc. might deviate significantly from the past. In this instance, this could have serious implications for the Provinces, as well as the Federal government.

Affairs at the recent meeting of Provincial Social Services Ministers in Ottawa, advising the Provinces that the Federal government is considering withdrawal of services to Treaty Indians living off-reserve. In regard to access to new funds, it has been indicated by the Minister of Manpower and Immigration that a portion of the \$4 billion Western Development Fund might be utilized for these purposes.

POTENTIAL
PROVINCIAL
CONCERNS

25. In regard to this general direction involving an increased emphasis on economic development, there are several matters which are potentially of concern to the Provinces:
 - (1) the Provinces can anticipate increasing pressure to assume responsibility for services and programs presently financed by the Federal government (e.g. services off-reserve);
 - (2) the track-record of D.I.N.A. with respect to Indian economic development has been less than impressive;
 - (3) the infusion of additional funds may distort Provincial priorities (e.g., renegotiated D.R.E.E. agreements, use of the highly discretionary Western Development Fund); and
 - (4) while it is recognized that the Federal government has a responsibility to protect the Indian interest, the involvement in major resource projects may provide an opportunity for intrusion into matters which are essentially provincial jurisdiction and responsibility.

ECONOMIC
DEVELOPMENT

22. Central to the emerging Federal directions, is the stated goal of increasing Indian economic self-sufficiency through increased emphasis on economic development. This objective derives from a recognition that the Federal government can no longer afford to continue to support the existing level of Indian poverty. At present, the bulk of the Department of Indian and Northern Affairs expenditures are directed towards remedial programs and on-going service delivery; with less than 5% of the budget being allocated for developmental activity. With population growth, this pattern will lead to continuing increases in the level of expenditure without significant improvements in Indian conditions. Thus the thrust of an increased emphasis on economic development is intended both to address Indian aspirations of self-sufficiency and, eventually, to reduce Federal transfer payments. The evidence is that this emphasis will take two directions: (1) measures to promote community-based economic planning and development, and (2) measures to increase the benefits derived by Indian people from major resource development projects.

RESOURCING
STRATEGIES

23. A major problem confronting the Department of Indian and Northern Affairs, however, is that economic development activity, if it is to be effective, will require a major infusion of additional funds for these purposes. Given the financial constraints to which the department is subject, two strategies are involved: (1) freeing-up funds within the existing D.I.N.A. budget; and (2) accessing funds outside the department. The freeing-up of funds within the existing budget will require a shifting of responsibility for certain matters either to other Federal departments or to Provincial governments. Viewed as indicative of the latter case is the announcement by the Minister of Indian

INDIAN
CONCERNS

20. While the proposed Indian Government legislation ostensibly addresses Indian aspirations related to autonomy and self-government, the Indians themselves have been critical. Their major concerns which have been stated are: (1) the lack of consultation in the early planning stages; (2) the possibility that the legislation, in view of its comprehensive nature, may by-pass the "moratorium" on changes to the Indian Act; and (3) the possibility that the legislation may impinge upon treaty and aboriginal rights.

POTENTIAL
PROVINCIAL
CONCERNS

21. As well, there is potential for concern on the part of Provincial governments. In addition to possible jurisdictional implications, which cannot clearly be anticipated at this stage, there are potential impacts on the Provinces in financial terms. As has been noted, the Department of Indian and Northern Affairs is subject to serious expenditure restraint which, accounting for inflation, entails no or negative growth. The problem, in essence, is how to do as much or more with fewer dollars. To some extent, the devolution of responsibility to the Bands for the management of functions previously performed by the department is also a devolution to the Bands of the problem of restraint. It can be anticipated that Bands, confronted with the pressure of restraint and budgetary shortfalls, will be forced to turn alternatively to other Federal government departments (also faced with restraint) or, more significantly, to Provincial governments. The prediction is that this pressure will be particularly pronounced during the early stages when Band management systems are developing and, hence, less cost-effective.

MEASURABLE
OBJECTIVES

16. In relation to Indians, the Directional Plan suggests the following as possible measureable objectives:

"- By 1982, introduce a legislatively defined option for Indian self-government supported by appropriately designated resourcing systems.

- By 1983-84, increase the take-up by Indians and Inuit of financial resources from other federal departments and provincial governments.

- By 1981, establish a federal policy in relation to the interests of Indians and Inuit in major off-reserve developments which impact on them.

- By 1984-85, reduce program and service staff by a factor of 30%."

RECOGNITION
OF ABORIGINAL
RIGHTS

17. In addition to these measures outlined in the Directional Plan, a final federal initiative which is of relevance is the recent amendment entrenching aboriginal rights in the proposed Constitution Bill.

D. IMPLICATIONS FOR THE PROVINCES

IMPLICATIONS
FOR PROVINCES

18. In all cases, the federal government initiatives which have been identified possess potentially significant implications for the provinces. These implications can be traced briefly in the following manner.

INDIAN
GOVERNMENT
LEGISLATION

19. There is evidence that the work of drafting the proposed Indian Government Bill is already in progress. In January of 1981, a Work Plan for the development of the proposed legislation was made public by Indian organizations.

RELEVANT
FEDERAL
DIRECTIONS

14. Nonetheless, recent developments suggest that the general directions may have been adopted and that the department is proceeding with implementation. For the purposes of discussion, these directions, which are identified in the plan include:

- (1) introducing legislative options that will permit Indian bands to adopt a form of self-government in relation to other levels of federal and provincial government, and the development of modified financial and administrative arrangements and practices to accommodate self-government;
- (2) introducing mechanisms, within the context of band-controlled socio-economic planning, possibly involving additional expenditures, to assist Indian bands towards increased economic self-reliance; and
- (3) accelerating the resolution of outstanding treaty land entitlements and the settlement of claims.

DIRECT
REFERENCE
TO PROVINCES

15. Integral to all of these thrusts is the intent to increase Indian self-reliance and, correspondingly, to reduce dependence on transfer payments. Of direct relevance to the Provinces, in this regard is the stated intention of "...clarifying the compatibility of jurisdictions amongst federal, provincial and band governments and the access by Indians to provincial programs, services and natural resources."

C. EMERGING FEDERAL DIRECTIONS

FEDERAL
CONTEXT

10. In the area of Indian Affairs, the Federal government is presently confronted with a situation characterized by: (1) the evident lack of significant improvement in Indian social and economic conditions as a result of the failure of government programs over the last thirty years to reduce the dependency of Indians in spite of increasing levels of assistance; (2) increasing political pressure reflecting a more forceful statement of Indian aspirations; and (3) severe restrictions in expenditure growth resulting from the budgetary situation.

PRESSURE
FOR NEW
DIRECTION

11. Within this context, the Federal Government has been faced with serious constraints in attempting any continuation of previous approaches and practices. As a result, there has been a search for directions which recognize Indian aspirations and attempt to improve Indian socio-economic conditions, within the framework of existing budgeting conditions.

"DIRECTIONS
FOR THE
1980s"

12. Indications of these proposed directions are contained in the Department of Indian and Northern Affairs document entitled, "Directional Plan for the 1980s." The existence of this document was drawn to public attention in September of 1980 by media coverage of Indian leaders' criticisms of the directional plan.

INDIANS'
CONCERNS WITH
DIRECTIONAL
PLAN

13. The concerns expressed by Indians were: (1) that the proposals had been developed without consultation; and (2) that elements of the plan were reminiscent of the 1969 White Paper. In response to this adverse reaction, the Minister of Indian Affairs requested his department not to implement the plan, pending discussions with the Indian organizations.

PERCEIVED
IMPRACTICALITY
OF INTEGRATION

7. In addition, the Indian view would be that, as a practical matter, efforts towards integration have not been and will not prove to be workable. Whatever the degree of assistance provided, Indian people do not feel that they can be totally incorporated into the larger society given basic differences in culture, and a seriously disadvantaged position in terms of economic conditions and political power.

EXISTING
SPECIAL
STATUS

8. Regardless of point of view, several factors must be acknowledged. First, while there will be continuing discussion in terms of integration and equality, Indian people are, in some senses, separate and do hold special status under our constitution, through the law and through general policy. Consequently, when Indian people raise the issue of some degree of separateness and special status, they are not suggesting something entirely different but, rather new forms of the basic relationship that has always existed.

EMERGING
ARTICULATION
OF INDIAN
PERSPECTIVE

9. Secondly, it must be recognized that, while this Indian view is not necessarily new, it is being increasingly advanced in a much more articulate and effective manner. It can be expected as the Indian people begin to articulate even more clearly their aspirations and concepts related to aboriginal rights, self-determination and sovereignty, etc., the Indian perspective will increasingly affect government, particularly Federal legislation and policy, in significant ways. This impact will be strengthened as Indian people through their organizations and leadership, begin to exert political pressure more effectively. Where Federal government policy is so affected, it can often be expected to have indirect implications for the Provinces.

B. INDIAN ASPIRATIONS.

PREDOMINANT
APPROACHES TO
INDIAN AFFAIRS

4. Traditionally, the predominant view has always been that eventually native people must function in Canadian society on the same basis as other Canadians. While this point of view recognizes that native people are seriously disadvantaged because of cultural, educational and economic differences, it is believed that, given sufficient special government assistance, native people will be able ultimately to compete effectively as ordinary Canadians within the framework of conventional political and economic activity. This tendency to view integration as the only realistic policy approach has at certain times been more explicit than at others (e.g., 1969 White Paper).

DISPARITY WITH
INDIAN VIEW

5. In recent years, it has become increasingly apparent that there are serious fundamental differences between this view and the view held by the Indian people. In brief, the Indian people do not share these assumptions about what is right, desirable or practical.

PERCEIVED RIGHT
TO RESOURCES
AND POLITICAL
AUTONOMY

6. From the Indian perspective, it would be argued that, because of their original occupation and land rights, they have a form of ownership and right to direct participation in resource development and the right to a high degree of political autonomy within the larger society. It would be held further that, because of these rights which derive from original occupation, the Indians are a distinct and, in some ways, separate people who have a right to a special identity and status within Canadian society. On these grounds, Indian people tend to reject any measures with an integrative intent.

A. INTRODUCTION

OVERVIEW
OF RECENT
DEVELOPMENTS

1. Recently, there have been a number of significant developments in the area of Indian Affairs. Over the last several years, the Indian leadership have begun to articulate far more clearly, and in a more effective manner, the aspirations of Indian peoples. Correspondingly, in recent months, there has been evidence of the adoption of a number of directional goals by the Department and Indian and Northern Affairs (D.I.N.A.). In both cases, these developments possess significant implications for governments at the Provincial level.

MEETING OF
PROVINCIAL
MINISTERS

2. Within this context, it is opportune that Provincial Ministers with Responsibilities for Native Affairs will be meeting in Edmonton on March 5 and 6, 1981. This meeting will provide Provincial Ministers with an opportunity to share information and views concerning both Indian and Federal government initiatives and to discuss, within this context, appropriate Provincial government roles, responsibilities and responses.

PURPOSE OF
THE PAPER

3. The purpose of this paper is to provide a broad overview which will serve as a general basis for these discussions. Briefly, the paper addresses three topics: (1) Indian aspirations; (2) emerging directions in Federal government policy and legislation; and (3) the potential implications of these for the Provinces.

OVERVIEW: EMERGING TRENDS IN INDIAN
FEDERAL-PROVINCIAL RELATIONS

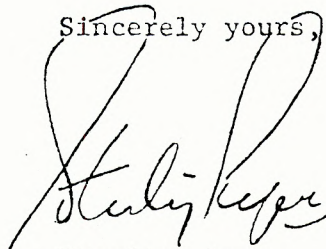
Discussion Paper
Prepared by
Native Affairs
Province of Alberta

February 1981

be in keeping with your government's policies on intergovernmental cooperation as set forth in the recently released "Time for Action", and confirmed by federal Ministers on numerous occasions.

I anticipate that I will be raising these matters further at the upcoming Federal-Provincial Conferences on the Constitution and the Economy. In the meantime, I intend to make this letter public.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Sterling Lyon". The signature is written in dark ink and is positioned below the typed name.

Sterling Lyon



MANITOBA

OFFICE OF THE PREMIER

WINNIPEG
R2C 0V8

October 19, 1978

The Right Honourable Pierre Elliott Trudeau, P.C., Q.C., M.P.
Prime Minister of Canada
East Block
Ottawa, Ontario
K1A 0A2

My dear Prime Minister,

Several times in previous years, the Government of Manitoba has written to you of our concerns related to the delivery of services to registered Indians. As a result of the exchange of correspondence, you directed the formation of a team to join the Government of Manitoba and the Manitoba Indian Brotherhood in tripartite negotiations on the whole range of issues of responsibilities and roles related to Indians.

As you will note from the attached letter which our Minister of Finance has sent to the Honourable Hugh Faulkner, we are very concerned with the lack of progress of the negotiations. The issues are indeed complex and extend over the operations of many federal and provincial departments, over a host of federal-provincial arrangements, and to constitutional issues. Yet the federal negotiating team has recently been narrowed to include only officials from the Department of Indian Affairs and Northern Development. I am informed that this is inappropriate given the range and complexity of the negotiations, and that this action constitutes one reason for the apparent inability to develop a federal position and for the lack of progress during the past year.

May I urge you to review the status of negotiations and to direct the deployment of sufficient and suitable resources to these negotiations which are sensitive and yet so compelling because of the needs of Indian people in Manitoba. Such efforts would certainly

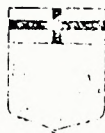
The current state of affairs is not acceptable. We are not content with waiting and expending effort fighting skirmishes on a variety of program issues which touch on the larger question of responsibilities and funding arrangements. To avoid the problems of the current conflicts, we have proposed in the tripartite discussions a scheme for rationalization of roles in program delivery which would enhance their effectiveness and efficiency. In the past, you have expressed support for utilizing the tripartite format for resolving issues. Before our governments can enter into tripartite arrangements and work effectively on the host of program issues outstanding, it will be necessary to agree on issues of responsibilities.

In July, you indicated that a federal position would be presented to a tripartite meeting in early Fall of this year. If these vital negotiations are to move forward, I suggest that federal, provincial and M.I.B. officials begin immediately to make preparations for a tripartite meeting to be held during the month of November.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "D. W. Craik".

D. W. Craik,
Minister of Finance.



MINISTER OF FINANCE

October 11, 1978.

The Hon. J. Hugh Faulkner,
Minister of Indian Affairs and
Northern Development,
Les Terrasses de la Chaudiere,
HULL, Quebec.
K1A 0H4

My dear Minister:

At our meeting on July 10, 1978, I informed you of how seriously we view the developing situation with respect to the Indian population of Manitoba. In my follow-up letter to you dated August 24, 1978, I outlined my reasons for believing that the simple extension of proposals which were contemplated to deal with the Alberta situation would be unsuitable as a basis for a national Indian policy and would be detrimental to the Province of Manitoba and to the Indian people in our Province.

Our efforts to examine and discuss these issues with you have been answered with inaction. The tripartite discussions continue to be stalled, as they have been for the past year, because, we are told, a federal position has not yet been developed and tabled. In the meantime, however, the actions of your officials and those of other federal departments are being directed toward continuing and even accelerating the transfer of responsibilities for Indians to the provinces. Most recently, the Department of Health and Welfare has informed the Province it will cease payments, effective immediately, for non-prescription drugs, certain optical and dental items and other items previously supplied to Indians. While you have made statements as recently as last month declaring that the 1969 Indian Policy White Paper is a dead issue, federal officials are now being directed to implement various portions of it. In the absence of an explicit federal position, the actions speak louder than the words.

The Hon. J. Hugh Faulkner.

-5-

August 24, 1978

I would hope that you will examine the Manitoba situation closely before developing national policies and that we will be able to have a constructive meeting in the early Fall.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "D W Craik".

Donald W. Craik,
Minister of Finance.

Att.

cc: Mr. Lawrence Whitehead.

occurred and therefore we are demanding compensation from the federal government for roles already undertaken by the province, its municipalities and school divisions.

Over the past two years of negotiations we have taken the stand that the federal government's constitutional responsibility for Indians must continue until Indians have achieved a position of genuine equality and self-sufficiency in our society. We have presented a plan for provincial participation which would work to rationalize the delivery system, to improve services to provincial standards and to save considerable funds by eliminating unnecessary duplication of service. This is all embodied in our offer to make all provincial programs available to Indians under an acceptable financial formula. The essential feature of that formula must be that the federal responsibility for all Indians be continued as needed and that the contributions of the province for social services programs be limited to revenues received from or for Indians.

We have also agreed with you and the Manitoba Indian Brotherhood that there must be a greater emphasis on job creation. Employment will enable Indian people to be self-sufficient, no longer in need of exceptional services and contributing more greatly to their own welfare. Indeed, we see the current generation of young Indian people becoming self-sufficient if appropriate measures are taken. However, we believe it is a fallacy to expect that all the necessary employment opportunities for Indians in Manitoba can be created on or near reserves. We believe that D.I.A.N.D. should also become active in job creation off-reserve, in urban centres and elsewhere. We are offering to discuss all developmental projects with you and will provide resources and funding for employment creation should a new financial formula on the social services programs give us the fiscal capacity to assume a greater role. Our proposals envisage reduced federal input with increased employment. To take this one step further, it may be possible to index federal participation to the demonstrated success of the development program.

I appreciate that federal government expenditures on Indians are a highly visible item which is increasing rapidly, due to population pressure and other factors, during a necessary period of restraint. However, restraint is not accomplished by passing the costs on to another level of government. Real restraint measures would consist of the rationalization of delivery, which Manitoba has been suggesting, and would encompass the measures to redirect expenditures from social assistance to job creation. I suggest real restraint requires a high degree of cooperation between the levels of government, and this cannot be achieved without each accepting a full measure of its responsibility and without each understanding the consequences of its actions on the other level.

during a meeting on May 24, 1978. I understand that there are some footnotes, which are currently being prepared by your officials, to be appended explaining the extrapolation techniques used, but I would hope that we can use this as the basic reference document in the future. Provincial, municipal, and school division taxation of Indians provides an estimated \$7.0 million of the \$37.5 million total.

Applying the proposed Alberta formula in Manitoba would result in elimination of direct payments to the province and municipalities for welfare and assistance for off-reserve residents. On the other hand, we would expect to receive additional federal funding for health and medical coverage for reserve residents which is currently only cost-shared under the Established Programs Financing arrangements. We would also, I assume, receive federal compensation for provincial courts and corrections costs for Indians committing crimes while resident on reserve. In total, these changes in funding, by our calculations, would net out, leaving the province with its net cost of \$37.5 million, of which only \$7.0 million could be recovered through Indian taxation. This would represent our cost of providing services to off-reserve Indians. In Alberta the off-reserve population is less than one-half as large. Alberta tax revenues, because of greater Indian affluence and resources, would likely be more than double the Manitoba total. This would leave costs and revenues in rough equilibrium rather than at a \$30.5 million deficit as in Manitoba under the same formula.

Of even greater concern to Manitoba are the long term projections. In Alberta, costs and revenues could still be in rough equilibrium in the long term. By the turn of the century, under the proposed formula, Manitoba could be paying 60% of a total which will have grown to over \$400 million (in current value dollars) because of the growth in Indian population. Assuming revenues rise to \$40 million, the net deficit would still have risen to \$200 million. This level of subsidization of Indians would be a great burden for a province the size of Manitoba, and would leave little room for developmental efforts or for measures to offset the potential for crisis in urban Winnipeg.

The Manitoba government would regard your adoption of the Alberta formula as the national policy as an abdication of federal constitutional responsibility for that group of Indians who choose to move off reserve. This abdication would work hardship on the provinces and the Indians in those provinces in unequal measure. The effects would be felt most greatly in Manitoba and Saskatchewan where the provincial governments would be forced to undertake new responsibilities for a significant proportion of the provincial population, without any appreciable increase in revenues. To an extent this transfer of governmental responsibilities has already

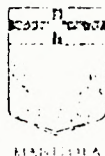
will be the majority of Indian people, and this would be done without reference to their continuing exceptional circumstances and needs. The British North America Act recognized the need for federal action to support the development of Indian people within Canadian society. The needs of Indians are often as great when they choose to reside off reserves as when they reside on reserves..

The differences between the provinces must also be given force when the national policy is developed. I believe the Alberta cost-sharing proposal is advantageous to Alberta but, in its raw form, unacceptable to Manitoba. The short and long term effects of the Alberta cost-sharing formula would be very different were it applied in both provinces. The basic formula, as I understand it, is that 100% of social services costs on reserve (including health, education, welfare, housing and law enforcement programs) would be financed by the federal government or band revenues, whether they were delivered by the federal government directly, or by the province, or by Indian bands. Programs off-reserve would be cost-shared in a similar manner as is provided in general federal-provincial agreements.

In Alberta, only 20% of the 35,000 registered Indians live off the reserves, and, most importantly, this percentage is unlikely to increase dramatically and should not exceed 30% in the foreseeable future according to D.I.A.N.D. estimates. Furthermore, several large Alberta reserves have significant income from oil and gas and other sources. Thus, under the proposed formula in Alberta, the federal government will pay 80% of the total costs (proportional to the on reserve population) plus a portion of the remaining 20% through general cost-sharing arrangements (perhaps 25% of the remaining 20%). Alberta will be able to fund the final 15% of the total from its taxation revenues which it receives from all Indians in the province. On-reserve residents do contribute some revenue to the province, related proportionally to their income, though they do not pay income or property taxes. In the longer term to the end of the century, because of the demographic and economic factors at play, Alberta's share would increase to no more than 25%, and should continue to be covered through Indian taxation.

In Manitoba, the situation is entirely different. The off-reserve Indian population is currently over one-third of the total registered Indian population of 45,000, and is projected to rise to over 50% in the next decade. Primarily because of the off-reserve population, the province, including its municipalities and school divisions, already expends \$37.5 million of its revenues on Indians net of all federal transfers including the Equalization and Established Programs Financing payments applicable to Indians. This is outlined in the attached charts*which were developed by our officials jointly

* In this document the charts are attached as Appendix A.



MINISTER OF FINANCE

W. G. L. BROWN
1978

August 24, 1978.

The Hon. J. Hugh Faulkner, P.C., M.P.,
Minister of Indian Affairs and
Northern Development,
Les Terrasses de la Chaudiere,
HULL, Quebec.
K1A 0H4

My dear Minister:

I wish to take this opportunity to express my pleasure at having met with you and your colleagues and the Manitoba Indian Brotherhood representatives on July 10, 1978. The meeting was a concrete indication that all three parties are eager to devise cooperative arrangements to improve and rationalize the delivery of service to Indian people in Manitoba.

At our meeting, you informed my colleagues and me that you would be developing a federal position for the current tripartite negotiations on the issues of responsibilities for delivery of services to Indians on and off reserve, and that you would present it to us in early Fall of this year. This was welcome news because the negotiations have already extended over two years and have proceeded at a very slow pace of late. A major cause of the delays has been that federal officials at the negotiating table have not yet presented a position on the question of what responsibility the federal government feels it holds for registered Indians as defined by the Indian Act. The definition of a registered Indian, as you know, does not distinguish between those on and off reserve.

I appreciate your position that the stance taken by the federal government during negotiations in Manitoba must be a part of a national Indian policy. You expressed your belief that the national policy should grow out of the current tentative cost-sharing formula being discussed in Alberta. The Manitoba government would object to the adoption of the Alberta formula as the national policy on the basis of principle. Those proposals would incorporate an abandonment of federal responsibilities towards what, in the future,

Footnotes:

^a Health costs are cost-shared through E.P.F.

^b Includes capital costs.

^c There are a large number of provincial and municipal programs for which no specific measure was found for tracing benefits to status Indians. They include the following:

Provincial - Legislation & Executive Council & General

- Agriculture

- Attorney General (General Admin., Law Reform Commission, Human Rights Commission, Criminal Injuries Compensation, Land Titles, Legislative Council & Public Trustee)

- Civil Service Commission

- Consumer, Corporate & Internal Services

- Finance (incl. Public Debt)

- Highways

- Industry & Commerce

- Labour

- Mines, Resources & Environmental Management

- Municipal Affairs (excl. Grants)

- Public Works

- Transportation Services

- Tourism, Recreation & Cultural Affairs

- Urban Affairs

- Flood Control & Emergency Measures

Municipal - General Government

- Fire Protection

- Local Roads & Transportation System Subsidies

- Environmental & Public Health

- Municipal Welfare

- Environmental Planning

- Economic Development

- Recreation & Cultural Programs

The total 1977/78 expenditures in Manitoba on these services was in excess of \$600 million. The amount included is a sum based on the proportion of Indians to total Manitoban population.

^d Does not include federal expenditures not specifically targeted to Indians or forming a part of cost-sharing of provincial services to Indians.

^e Does not include federal expenditures not specifically targeted to Indians.

FEDERAL-PROVINCIAL EXPENDITURES ATTRIBUTABLE TO STATUS INDIANS
PROVINCE OF MANITOBA 1977-78

	DIRECT FEDERAL EXPENDITURES	FED. TRANSFER/ COST-SHARING OF PROVINCIAL EXPENDITURES	NET PROVINCIAL EXPENDITURES
<u>IDENTIFIED EXPENDITURES</u>		\$ millions	
Overhead	\$ 10.9		
Social Assistance	27.4	\$12.6	\$ 3.6
Education	24.4	8.1	7.3
Continuing Education	6.6	3.9	1.2
Health	16.2		19.8 ^a
Law Enforcement	3.1	4.9	14.9 ^b
Community Services } Economic Development }	13.6	2.5	6.8 ^b
Employment	6.8		
Band Management	4.6		
Cultural Identity	.6		
Capital Expenditures	10.2		
SUB-TOTAL IDENTIFIED PROGRAM EXPEND.	\$124.4 ^d	\$32.0	\$53.6
PROPORTIONAL TOTAL OF ALL OTHER EXPENDITURES	N/A		\$25.0(est) ^c
TRANSFER PAYMENTS			
- E.P.F.		9.8 ^a	<9.8>
- Equalization		31.3	<31.3>
TOTAL EXPENDITURES	\$124.4	\$73.1	\$37.5
TOTAL FEDERAL DELIVERY	<u>\$124.4^d</u>		
TOTAL FEDERAL EXPEND.		<u>\$197.5^e</u>	
TOTAL PROVINCIAL DELIVERY			<u>\$110.6</u>
TOTAL OF COSTS OF DELIVERING SERVICES (ALL LEVELS OF GOVT.)		<u>\$235.0^e</u>	

FEDERAL-PROVINCIAL EXPENDITURES ATTRIBUTABLE TO STATUS INDIANS

PROVINCE OF MANITOBA 1977-78

(Estimates)

	Total Federal Delivery	Total Prov. Delivery ¹	Total Costs
		\$ million	
<u>IDENTIFIED EXPENDITURES</u>			
Overhead & Other	10.9	25.0	35.9
Social Services	27.4	16.2	43.6
Education	24.4	15.4	39.8
Continuing Education	6.6	5.1	11.7
Health	16.2	19.8	36.0
Law Enforcement	3.1	19.8	22.9
Community Services	13.6	9.3	22.9
Economic Development			
Employment	6.8	incl. above	6.8
Band Management	4.6		4.6
Cultural Identity	.6	incl. above	.6
Capital Expenditures	10.2	incl. above	10.2
TOTAL EXPENDITURE	\$124.4	\$110.6	\$235.0

1. Total Provincial delivery includes expenditures of municipalities and school divisions.
2. Prepared by a joint working group of M.I.B., federal and provincial officials (D.I.A.N.D. and Manitoba Department of Finance) May, 1978.

ANALYSIS OF NET PROVINCIAL
EXPENDITURES ATTRIBUTABLE TO STATUS INDIANS
PROVINCE OF MANITOBA 1977-78

(Estimates)
(\$ millions)

Total Expenditures of all Levels of Government	\$235.0
Less Direct Federal Program Delivery	<u>124.4</u>
Total Provincial Delivery	110.6
Less Federal Transfers and Cost-Sharing of Provincial Programs	<u>73.1</u>
Net Provincial Expenditures	<u>\$ 37.5</u>

FOOTNOTES:

1. Total Provincial delivery includes expenditures of municipalities and school divisions.
2. Prepared by a joint working group of M.I.B., federal and provincial officials (D.I.A.N.D. and Manitoba Department of Finance) May, 1978

to provinces,

3) the federal government and the provinces, in consultation with Indian leadership, should negotiate program delivery and cost-sharing arrangements which reflect this special federal responsibility,

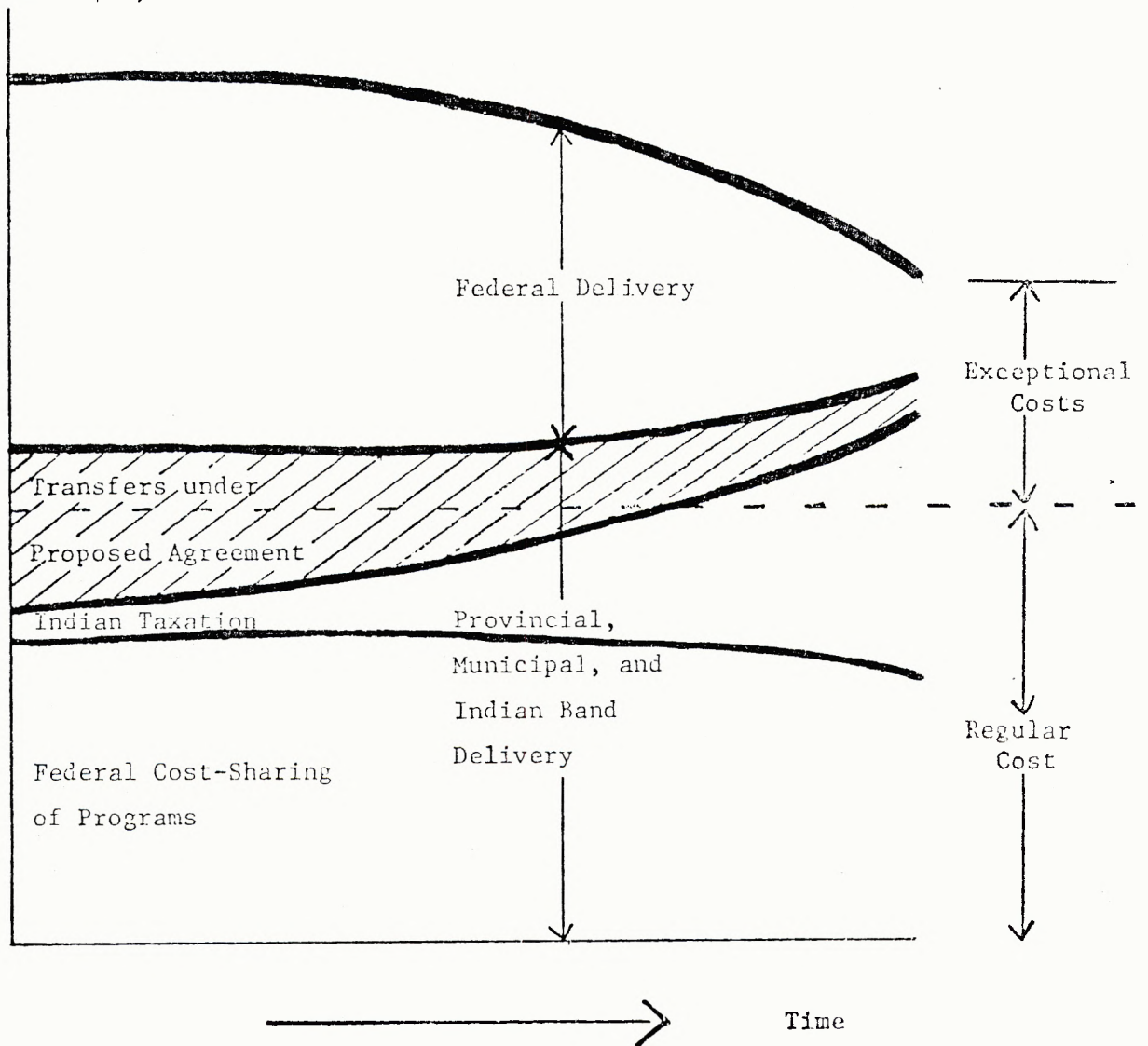
and,

4) these program arrangements should rationalize, redirect and coordinate the programs of all levels of government to enable the Indian people to achieve greater participation and full equality of opportunity in the economic, social and cultural aspects of Canadian society.

DEVELOPMENTAL MODEL: LONG-TERM PROJECTIONS

SERVICES TO MANITOBA REGISTERED INDIANS

Per Capita
Social Services Costs
(in constant \$'s)



Financing from the federal government would be determined from principles related to responsibilities, needs and the success of developmental efforts. The plan would incorporate a shift in emphasis from expanding social services to creating employment opportunities for Indians.

The Government of Manitoba is presenting a plan of real restraint to supplant the current plan for federal government cost control. The federal plan is not restraint but merely a plan for passing the costs on to another level of government. The Manitoba plan would seek to control exceptional costs through reducing the need of Indians for social services (as indicated in Figure 2). In this manner the federal government's objectives for cost control may be reconciled with Indian and provincial concerns.

Real restraint will require a spirit of cooperation within Confederation to replace the unilateral actions and confrontations of the past. Each level of government must accept its responsibilities and recognize the effects its actions will have on the other. This is true for all areas of federal-provincial relations.

To address the specific issues related to services to Indians, the Government of Manitoba recommends that:

- 1) the federal government must continue to have a special responsibility for Indian people,
- 2) the federal government must not transfer this responsibility unilaterally in whole or in part

the 1966 Ontario Welfare Agreement Formula and a current Alberta proposal. The Minister of Finance for Manitoba, the Hon. Donald Craik, has recently written to Mr. Faulkner expressing concern that a national policy developed from such bases would be unlikely to take sufficiently into consideration the different circumstances existing in Manitoba (see Appendix B). It is unlikely that it would either meet the needs of Indian people in Manitoba or obtain the acceptance of the Manitoba government. Therefore, he has urged the federal government to review the circumstances of Indians in Manitoba in order that their developing position might form a better basis for continuing negotiations and for rationalizing the respective roles and responsibilities of governments for Indian people.

IV. RECOMMENDATIONS

*Manitoba
Government
Position*

The Government of Manitoba has presented a plan for provincial participation which would work to rationalize the delivery system, to improve services to provincial standards and to save considerable funds by eliminating unnecessary duplication of services. A program by program review of objectives and alternative delivery possibilities (by federal, provincial or municipal governments and/or Indian bands) would be undertaken. A common-sense and coordinated approach would be taken to the development of the roles of the parties.

4) Pattern of Negotiations:

The federal government and the provinces could choose to address these issues on either a function by function basis or on a comprehensive basis. Given the complexities of fiscal arrangements and the desirability of maximizing provincial control of provincial expenditures, Manitoba believes that it is most desirable to proceed on negotiations across the board. A further advantage would be to maximize efficiency and effectiveness by avoiding unnecessary accounting and red tape in each program area.

*Status of
Manitoba
Negotiations*

Tripartite negotiations among the federal and Manitoba governments and the Manitoba Indian Brotherhood commenced early in 1977. Initially, there was good progress made on delineating the issues of roles and responsibilities and the alternative mechanisms to rationalize the programs of the different levels of government and Indian bands. Since then no progress has been made, and this is because the federal government has failed to place on the table a formal position with respect to the key issue of what responsibility it feels it holds for Indians on and off reserves.

At a federal-provincial Ministerial level meeting on July 10, 1978, the Minister of Indian Affairs and Northern Development, the Hon. J. Hugh Faulkner, posited the possibility that the federal position could develop from a combination of

Issues

Several major issues have been outlined. Specifically,

1) Transfers:

The federal government has taken several initiatives to persuade provinces to take over the delivery of Indian programs. Though the provinces have expressed some willingness to expand their service delivery, appropriate financial arrangements which would recognize continuing federal responsibility were never agreed upon. Despite lack of agreement, significant delivery and cost burdens have been transferred to the provinces.

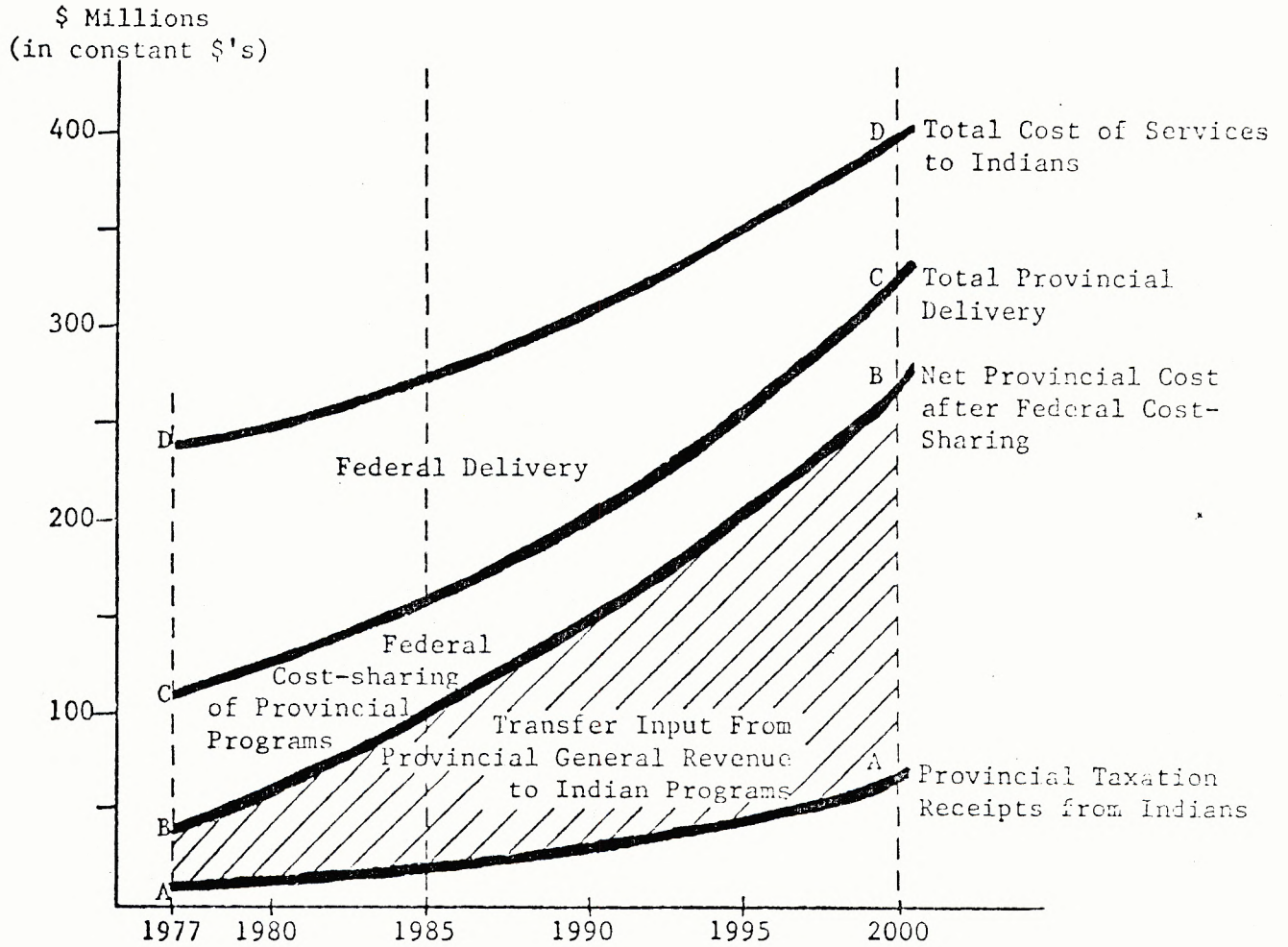
2) Total Costs:

Provision of services to Indians is a high cost proposition, amounting to \$235 million in total in Manitoba in 1977-78. Because of the demographic factors at play and the pattern of delivery responsibilities combined with the lack of progress towards Indian economic self-sufficiency, costs will continue to rise rapidly and under current federal policies these additional costs will increasingly have to be met from provincial revenues with limited federal cost-sharing under present arrangements.

3) Off-Reserve Migration:

The element of total cost related to the provision of services to Indians migrating off reserve will become of major concern to municipalities and several provinces, hitting proportionally hardest in Manitoba and Saskatchewan.

COSTS OF GOVERNMENT SERVICES TO STATUS INDIANS
A TWENTY-FIVE YEAR PROJECTION OF PRESENT TRENDS
IN THE PROVINCE OF MANITOBA



*Trends
and
Projections*

Several factors are at play which have very serious implications for the Province, namely:

- a) a rapid increase in the registered Indian population of 2% to 3% per year;
- b) no major improvement in the economic circumstances of Indian people;
- c) an increasing rate of migration off-reserve, which may mean increases of up to 10% per year in the number of urban Indians over the next few years, and a doubling of the off-reserve population during the next ten years;
- d) changes in federal-provincial fiscal arrangements;
- e) continued federal attempts to withdraw specific cost-sharing for Indian programs.

If current federal policies are continued, these factors in combination, will cause a deteriorating situation. The costs of providing services to Indians will continue to rise, but federal delivery and federal cost-sharing of provincial delivery will both decline in constant dollar terms. The drain on the provincial and municipal governments will then increase dramatically to several times the current levels (see Figure 1). Finally, the type and level of services will be insufficient to meet the needs of Indian people, particularly those who choose to migrate to the urban areas.

*Financial
Implications*

It is now clear that in respect of Indian programs delivered in Manitoba in fiscal year 1977-78, there was a shortfall of over \$30 million, which was a major component of the total provincial deficit in that year.

Federal and provincial officials have determined that approximately \$100 million of services of the Provincial government, municipalities and school divisions flowed to Indians in Manitoba in the 1977-78 fiscal year. Another \$125 million of services was delivered by the Federal government (see Appendix A). Of the amount delivered by the Province, only 25% of the cost was recovered through specific program cost-sharing agreements. A portion of Manitoba revenues under the current Fiscal Arrangements and Established Programs Financing Arrangements could possibly also be ascribed as being applicable to the Indian people, but on the other hand, these payments are made to the provinces to assist them to carry out provincial responsibilities, not as a mechanism to transfer a portion of federal responsibility to the provinces. Manitoba taxation receipts from Indians were only \$7 million because of the combination of low income and tax exemptions for Indians resident on reserves. Using the most generous interpretation of federal cost-sharing in respect of Indian programs delivered by Manitoba, there is still a shortfall of over \$30 million, or 27% of the total cost of delivery, which had to be covered by provincial or municipal taxation on the remainder of the population.

*Provincial
Objectives*

The provinces can provide two things which, at present, are missing from the scene. First, they can ensure that whatever is done with respect to Indian services is based on a mutually understood and acceptable policy direction which sorts out responsibilities, roles, objectives and priorities, and that whatever is implemented is a product of careful planning in which Indian people participate. Secondly, the provinces must increase the awareness of both the federal government and Indian people of the importance of such a phenomenon as Indian urbanization. In doing so, it may be possible to ensure that an increasing exodus off Indian reserves does not become an excuse for another variation of federal "termination".

III. MANITOBA PERSPECTIVE

*Joint
Review
Process*

In the past few years, the Manitoba government, together with the Manitoba Indian Brotherhood, has been documenting the extent of provincial involvement in providing services to Indians and the pattern of federal funding. When the extent of involvement and the pattern of federal withdrawals were outlined, the Province initiated discussions with the Manitoba Indian Brotherhood and the federal government concerning the provincial role and responsibility for provision of services to Indians.

*Piecemeal
Approach
to Transfers
1970-1978*

Having failed in its two major initiatives to shift its Indian program responsibilities to provinces on a large scale, the federal government has adopted a more piecemeal approach. Using working relationships forged through financing Indian organizations at provincial and national levels, they hope, apparently, to deflect Indian demands onto provincial governments and thus move further away from the concept of federal responsibility. Increasingly, they appear to be playing the role of Indian advocate to the rest of society, while reducing their own direct involvement in meeting the needs of Indian people.

Although the process became evident more than fifteen years ago, there appears to have been a marked acceleration of transfers of responsibilities from the Department of Indian Affairs to other federal departments and to provinces beginning about 1970. A dilution and transfer of federal Indian program responsibilities to other jurisdictions does not necessarily involve any immediate unloading of all federal obligations for Indians. What this does is merely set the stage for such an event. It is much easier to terminate special Indian status vis-a-vis the federal government once Indian people are firmly dependent on a multitude of agencies for their services. This is why the provinces' involvement in Indian services cannot proceed in an "ad hoc" or capricious way. It must take place within clear and well-articulated policy.

in principle, the federal government should agree to pay 100% of the total cost for extending welfare programs to Indians.

Between 1964 and 1968, a series of federal-provincial and inter-provincial meetings of Ministers and officials were held on these issues, but by the end of 1968, it was clear that little or no progress had been made in rationalizing a provincial role in Indian services since the federal initiatives of 1964 and one attempted by the Prairie Premiers in 1966.

1969
*Federal
White Paper
on Indian
Policy*

In June 1969, the federal government issued a White Paper announcing a proposed new Indian policy. The White Paper spelled out a number of measures which were to be implemented immediately:

- a) the legislative and constitutional bases of discrimination would be removed,
- b) services would come through the same channels and from the same government agencies for all Canadians, including Indians (in effect transferring all program responsibilities to the provinces),
- c) control of Indian lands would be transferred to Indian people.

Indians across Canada united immediately in denouncing the White Paper and the Prime Minister promised that unilateral solutions would not be imposed on the Indian people.

II. BACKGROUND

*Indian
Affairs
Policy
Through
1950's*

Until the late 1950's, there was no evident federal strategy to shift any of its financial burdens onto the provinces. Up to that time, provinces had occasion to deal with the federal government on few specific Indian issues. For the most part, Indians received all their services from the federal government. Although there were exceptions involving "ad hoc" arrangements in a few isolated program sectors operated by provincial departments and private agencies, these were not regarded as very significant. In most instances, the federal government paid 100% of the costs.

*1964
Initiative
to Involve
Provinces*

Beginning in 1964, the federal government made its first concerted effort to shift some of its program and fiscal responsibilities for Indians to the provinces. They suggested that cost-sharing should be based on the average per capita costs for particular programs in each province for non-Indians. All costs over and above this average per capita would be picked up 100% by the federal government. The effect of this formula would have been to establish a cost-sharing ratio of anywhere from 0% federal input to 97% federal input in the welfare program sector. Ontario was the only province to sign an agreement, that being in the area of welfare services. All other provinces raised various objections to the agreement, the major one being that,

delivery of services to Indians causes many instances of overlap and duplication of effort as well as service gaps leading to considerable inefficiency and lack of effectiveness.

*Current
Concerns*

At the recent annual meeting of the National Indian Brotherhood in Fredericton, New Brunswick, Indian leaders expressed their concern that patriation of the constitution eventually could allow the federal government to cast off its responsibilities for Indians and remove their special status. They would like their special status and relationship to the federal government clarified in any successor to the B.N.A. Act. At that same meeting, the President of the Manitoba Indian Brotherhood, Mr. Lawrence Whitehead, presented what he termed the "bread and butter issues" which, if addressed successfully would lead Indians toward a better economic future.

For the past two years the Manitoba government has attempted to negotiate with the federal government on the issues involving the delivery of programs to Indians, but these negotiations have been stalled because the federal government has not yet tabled any positions or perspectives on many of the issues outlined above. Rather than negotiate, the federal government has continued a pattern of unilateral action which aggravates provincial and Indian concerns.

Though the Minister of Indian Affairs and Northern Development vehemently denies it, federal actions indicate that they are implementing portions of the 1969 Indian White Paper. The shift of responsibility for Indians to the provinces through changes in delivery and cost-sharing arrangements and through population shifts of Indians migrating to urban areas, will cause severe financial pressures on several provinces and many urban municipalities. These federal actions are detrimental to those areas of the country with the greater proportions of native people.

*Manitoba
Government
Position*

The Government of Manitoba believes that it is necessary to examine thoroughly the questions related to the delivery of services to Indians. We further believe that the federal government must not transfer unilaterally its constitutional responsibilities for Indian people in whole or in part to provinces and junior governments, that the federal government should not reduce its role while the needs of Indians continue to be great, and that all levels of government must rationalize, redirect and coordinate their programs to enable the Indian people to achieve greater participation and full equality of opportunity in Canadian society.

*Constitutional
Issues*

The issues surrounding the delivery of programs to Registered Indians incorporate constitutional questions related to both the division of powers, and duplication of services (i.e. the efficiency and effectiveness of governments).

The responsibility of the federal government for Indians remains undefined and is shifting over time. The provinces all find themselves delivering more programs to Indians which in decades past were provided by the federal government.

The definition of special rights which Indians may claim from the federal government is lacking. Pertinent to this point is the reference in the federal government's constitutional white paper "A Time for Action" which reads as follows:

"The renewal of the Federation must fully respect the legitimate rights of the native peoples, recognize their rightful place in the Canadian mosaic as the first inhabitants of the country, and give them the means of enjoying full equality of opportunity."

Federal responsibilities for Indians residing off reserves are a prime issue of dispute. The application of provincial laws and powers on reserves is occasionally under question. Indian local government as currently conceived by federal officials frequently envisages powers in areas of provincial jurisdiction. The general lack of clarity in roles and responsibilities of the levels of government for

I. OVERVIEW

In Manitoba, a particularly acute economic concern relates to the failure of federal government programs to lead native Indians onto a path of economic self-sufficiency. Of the roughly 10,000 adult registered Indians in Manitoba which one could anticipate would join the labour force if opportunities were available and if their preparation and training were adequate, it has been estimated by Indian leaders and in federal government reports that at least 6,000 or 60% are unemployed. Of the 4,000 who are employed, not all have escaped the grasp of poverty because many are marginal or seasonal workers with low incomes.

Though the unemployed Indian is rarely counted in the published unemployment statistics, these facts concerning Indian unemployment are known in Ottawa. Yet we cannot put a price tag on the cost to Canada of the failure of the federal Indian programs, a cost which is manifest not only in lost wages and productivity, but also in human misery and in the growth of government bureaucracy designed to care for its Indian dependents.

The provinces are faced by a curious response from the federal government to its knowledge of Indian under-development. Rather than recognizing the special efforts which will be required to advance the economic status of Indian people, we note an accelerating abandonment of support and a passing of the burden for the costs of the provision of social services for Indians from the federal government to the provinces.

MANIT^{}BA

DELIVERY AND FINANCING
OF SERVICES TO INDIANS

HONOURABLE STERLING LYON
PREMIER OF MANITOBA

Federal-Provincial
First Ministers' Conference on the Economy

OTTAWA: November 27 to November 29, 1978.

The Federal-Provincial Fiscal Arrangements cover the Equalization Program, federal funding for medical care, hospitals, universities and technical schools, other extended health care programs, and the tax collection arrangements.

At the present time, as a result of arrangements introduced in 1977, the Federal Government provides money to all provinces to assist in the provision of these fundamentally important health, education and other public services.

During the last round of fiscal arrangements negotiations in 1976, a common western position was developed at the Western Premiers' Conference in Medicine Hat which had an important, positive influence on the outcome of the following interprovincial and federal-provincial discussions.

The Premiers stated that they believe the arrangements worked out and put into effect in 1977 have served Canada well and that no major changes are needed.

As was the case five years ago, the western provinces have co-operated fully in the current set of Fiscal Arrangements negotiations by working out and presenting a joint position on the Arrangements at an early stage in the negotiating process.

Since the Lethbridge Conference last year, the four provinces have worked closely together on this issue under the chairmanship of Manitoba's Finance Minister, the Honourable A. Brian Ransom and his predecessor, the Honourable Donald W. Craik, and, in December, 1980, joined in presenting a consensus western position statement on the Fiscal Arrangements to a federal-provincial Conference of Finance Ministers in Ottawa (attached). That statement emphasized that the western provinces



WESTERN PREMIERS
CONFERENCE ~ 1981

Thompson, Manitoba

COMMUNIQUE NO. 3

THE FEDERAL-PROVINCIAL FISCAL ARRANGEMENTS

The four Ministers also discussed tax consistency and harmonization in Canada. They agreed that it was desirable to consider "codes of conduct" to guide all governments in setting tax policy in the future.

The Ministers instructed their officials to begin work immediately on the development of a code of conduct that Western provincial governments could consider as a first positive step in gaining the agreement of all governments in Canada, including the federal government.

The Provincial Ministers expressed concern that the financial negotiations and difficult program discussions are being delayed by Ottawa. "Genuine federal-provincial discussions and negotiations on financial and program issues are absolutely essential if we are to improve federal-provincial relations."

The Western Finance Ministers agreed to meet again in early June and stated that they would continue to co-operate and consult with all their provincial colleagues and the federal government to reach a consensus on refinements to the Fiscal Arrangements.

D-

MEETING OF WESTERN PROVINCIAL FINANCE MINISTERS AND TREASURERS:
VICTORIA - MAY 5, 1981

STATEMENT ON THE FISCAL ARRANGEMENTS

Finance Ministers and Treasurers from the four Western Provinces met in Victoria on May 5, 1981 to discuss the upcoming negotiations of the Federal-Provincial Fiscal Arrangements.

These arrangements cover the Fiscal Equalization Program, Established Programs Financing (which covers medical care, hospitals, extended health care, universities and technical schools) and the Tax Collection Agreements.

The discussions of the four Provincial Ministers elaborated upon the positive position (attached) on Fiscal Arrangements adopted at the Western Premiers Conference in Thompson, Manitoba on April 28, 1981.

The Ministers emphasized that the present fiscal arrangements have served the people of Canada well. Ministers agreed, "that major changes to the fiscal arrangements are not required but work should continue on ways to refine and improve the existing arrangements." They stressed that this work should be guided by the six basic principles which the Western Premiers set out at their Thompson Conference:

- (1) Stability and predictability
- (2) Flexibility and balance
- (3) Rationalization and simplification
- (4) Clarity of responsibilities
- (5) Fiscal responsibility
- (6) Co-operation and genuine federal-provincial consultation

Ministers stated that the federal government's intention to reduce financing for health and post-secondary education is unjustifiable and unacceptable. "Cutting the federal support for these programs for people to achieve "savings" for the federal treasury would seriously damage the key programs. Federal action should not simply involve a shift in tax burdens to provinces and municipalities."

"There is no doubt that the federal government has the fiscal capacity to maintain their support for these essential social programs, which have been and will continue to be an integral feature of our Confederation."

Western Finance Ministers expressed a strong desire to proceed with discussions aimed at improving these existing programs. They indicated their readiness to discuss the clarification of program conditions and visibility, and they urged the federal government to specify its concerns. Similarly the Ministers sought recognition of certain provincial concerns including program costs and the age distribution in Canada.

The Ministers reiterated their longstanding view that the present equalization program --the objective of which is to ensure that all provinces can provide essential public services without burdensome levels of taxation--is a fundamental element of Canadian federalism.

Ministers discussed the Tax Collection Agreements and noted a number of areas where improvements should be considered. These include the unilateral introduction of federal tax expenditures which provinces must cost-share, and the lack of federal flexibility in the administration of provincial tax programs and incentives.

modification proposals it may have as soon as possible . . . and by giving all provinces a commitment that it is prepared to engage in genuine consultation in an attempt to prevent negotiation by confrontation — which has marked recent constitutional and energy discussions.

We believe that the best way of starting such a process would be to agree here, today, to hold a special Conference of Finance Ministers on the Fiscal Arrangements no later than mid February to begin discussing specific federal proposals for the future of these important programs.

That is not to say . . . Mr. Chairman . . . that we would not be prepared to begin to discuss specifics today, if you are able to give us some insight into the kind of proposals you will be putting forward.

I know that my colleagues from the other western provinces will want to add to what I have already said. I hope that you have found these initial comments helpful and constructive.

this reason, we are particularly concerned about the specific plans you and your colleagues are considering to give effect to the statement of intent, in your October 28th budget, to "achieve significant savings" in transfers to the provinces.

Mr. Chairman . . . the western provinces are aware of your government's stated concerns about the size of your budgetary deficit . . . and we are on record as sharing those concerns. Clearly, action to reduce the federal deficit is essential, but such action should not simply involve a shift in tax burdens to provinces and municipalities. It is important to emphasize that the same taxpayers support all levels of government, and federal efforts to offload obligations onto other levels will not reduce overall tax burdens.

The western provinces continue to be willing to co-operate with the Government of Canada in efforts to improve the current set of fiscal arrangements and other transfers. We want to emphasize, however, that we are reasonably satisfied with the principles underlying those arrangements as they now stand . . . although we have concerns about the continuing adequacy of future funding levels in light of inflationary pressures on health, higher education and other programs.

Our provinces do not see the need for immediate large-scale modifications to these programs and we see no justification for federal reductions. We believe the current arrangements offer both levels of government important advantages, compared to other alternatives, in terms of both flexibility and budgetary predictability.

In this connection, we note that federal budget forecasts indicate that the established programs financing transfers for health and post-secondary education, and Canada Assistance Plan transfers for social services and social assistance, would grow at a lower rate than overall federal outlays over the next three years even if no changes were made in those programs, and that equalization payments would grow at a rate which is just slightly higher. Therefore, these transfers cannot be argued to represent a more significant source of pressure on the federal budget than a wide variety of other federal expenditure obligations with a lower priority.

The western provinces are concerned that federal proposals for restructuring fiscal arrangements with the provinces may be motivated not by a desire to improve program quality but by a desire to increase the intrusions of the federal government in other areas of provincial affairs.

Only fifteen months remain before the current set of fiscal arrangements expire. For this reason . . . the western provinces believe it is essential that the federal government clarify its intentions by tabling any specific program

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THE FISCAL ARRANGEMENTS:
THE GENERAL CONCERNS OF THE WESTERN PROVINCES

A Consensus Statement Presented On Behalf Of
British Columbia, Alberta, Saskatchewan and Manitoba

By

HONOURABLE DONALD W. CRAIK
MINISTER OF FINANCE
GOVERNMENT OF MANITOBA

Ottawa: December 17, 1980

Mr. Chairman:

In 1976, a set of common positions on the fiscal arrangements developed by the provinces had an important and positive influence on federal-provincial negotiations that year.

With that in mind, the Western Premiers agreed . . . at their last Conference in Lethbridge this spring . . . that our four provinces should once again work together to review current fiscal arrangements issues and to determine areas in which we might, once more, be able to make a joint contribution to the next round of negotiations.

My colleagues and I have discussed these issues and I have been asked, on their behalf, to outline a number of the major concerns we share as we enter a year of intensive discussions with you and with our colleagues from the other provinces.

You may recall . . . Mr. Chairman . . . that in their joint position statement on federal-provincial financial arrangements in December, 1976, all ten provinces described these programs as "the hallmark of fiscal federalism for the past thirty years" . . . and went on to emphasize that "the results of our joint endeavours to reach a comprehensive and acceptable financial arrangement are pivotal for the future direction of Canadian federalism." I can advise you that the western provinces continue to hold these views as negotiations on revisions to these important arrangements begin once again. We believe that the primary objective of all parties in the upcoming negotiations should be to build up and improve our current arrangements — not tear down the underlying financial framework of our Confederation. For

6. The province will not transfer lakes or rivers or the beds of same to Indian reserves.
7. The province will not pay for access roads to new reserve lands.
8. The province will not transfer land to Canada for designation as Indian reserves if such transfer will work to the detriment of other residents of the area.
9. In all instances of land transfer the rights and needs of Manitoba society and in general the public interest of Manitoba shall be an overriding consideration in the negotiations.

September 22, 1978

POLICY GUIDELINES OF THE PROVINCE OF MANITOBA
COVERING INDIAN LAND ENTITLEMENT

1. The date for the selection of a population count on which to base acreage will be the date of first application (or survey) for land.
2. Treaty entitlement transfers shall include mines and minerals as in all past entitlement transfers in Manitoba in accordance with Section 12 of the Manitoba Natural Resources (Transfer) Act.
3. Manitoba will not transfer lands that are clearly chosen for speculative purposes in respect of future public utility or public works projects such as highways, pipelines or transmission lines.
4. As much as possible claims should be taken in single blocks contiguous to existing reserves. However, the geography of northern Manitoba will not always permit this, requiring exceptions to provide land that can be of some use to the bands. Sites for settlement purposes will normally be smaller in size and will be chosen having regard for such factors as drinking water supply, access, hydro availability or building sites.
5. The province will not transfer land within 99 feet of ordinary high water of navigable rivers and lakes however leases will be made available to bands for the use of these areas without Manitoba or its agencies assuming liability for flood or other damages.

21

MANITOBA
INDIAN LAND CLAIMS
INFORMATION

	BRITISH COLUMBIA	ALBERTA	SASKATCHEWAN	MANITOBA	ONTARIO
5. Special Reserve (Sec. 36)	Canada must guarantee that Section 36 will not be utilized to create or expand reserves without provincial agreement.	----->	----->	----->	----->

DEMOGRAPHIC DATA FOR INFORMATION

	BRITISH COLUMBIA	ALBERTA	SASKATCHEWAN	MANITOBA	ONTARIO
On-reserve Indians	53,000	28,000	30,000	30,000	45,000
Off-reserve Indians	<u>20,000</u>	<u>7,000</u>	<u>15,000</u>	<u>15,000</u>	<u>20,000</u>
Total Registered	53,000	35,000	45,000	45,000	65,000

INDIAN LAND MATTERS	BRITISH COLUMBIA	ALBERTA	SASKATCHEWAN	MANITOBA	ONTARIO
1. Aboriginal Rights	If aboriginal rights or title ever did exist there were extinguished prior to confederation.	Aboriginal rights or title were extinguished by treaty	----->	----->	Aboriginal rights appear to have been dealt with in most if not all of Ontario by treaties, purchases or surrenders.
2. Indian Treaty Land Entitlement	Not applicable	As of date of treaty signing	December 31, 1976	Date of 1st application for reserve land	Not applicable
a. date of population	Not applicable	As of date of treaty signing	December 31, 1976	Date of 1st application for reserve land	Not applicable
b. mines and minerals	Some minerals covered by reciprocal federal/provincial legislation providing for provincial control and equal division of revenues.	Reserved by the Province	Transferred under treaty entitlement. Transferred on exchanges in return for mines and minerals.	Transferred under treaty entitlement, negotiable on exchanges.	Transferred with surface
c. eligible land for selection	Not applicable	Unoccupied Crown land	Unoccupied and occupied federal and provincial Crown land	Unoccupied Crown land	Not of current concern
3. Hunting, Fishing and Trapping	Indians subject to provisions of provincial Wildlife Act on unoccupied Crown lands.	Indians can hunt for food on unoccupied Crown land and lands to which they have been given access.	----->	----->	Indians can hunt for food according to the terms of each individual treaty and only when provided for in the treaty.
4. Expropriation (Sec 35)	Where agreement cannot be reached Canada must be prepared to exercise its authority to expropriate reserve lands on behalf of the province for public purposes (works of public utility and finance) where such taking is in the public interest.	----->	----->	----->	----->

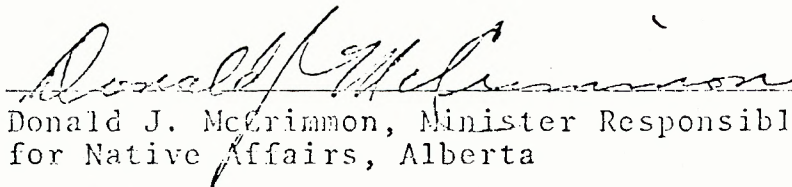
PROVINCIAL POSITIONS - INDIAN MATTERS

EXTENSION OF PROVINCIAL SERVICES TO TREATY INDIANS	BRITISH COLUMBIA	ALBERTA	SASKATCHEWAN	MANITOBA	ONTARIO
1. Constitutional Responsibility for Indians	Federal Government - legal and fiscal responsibilities for provision of all services both on and off reserve to Treaty Indians and should develop a consistent policy.	----->	----->	----->	----->
2. Provincial Role and Cost Sharing Arrangements a. On-reserve	Prepared to deliver social services at the request of Bands subject to 100% federal government funding. Prepared to cost share long-term job creation and economic development programs.	Prepared to deliver provincial services at the request of Bands subject to 100% federal government funding.	Limited participation only at the request of the Federation of Saskatchewan Indians.	Prepared to deliver provincial services at the request of Bands subject to 100% federal government funding.	Prepared to deliver provincial services at the request of Bands subject to 100% federal government funding.
b. Off-reserve	Same as above	Provincial funding off reserve subject to federal agreement on re-allocation of current expenditures.	Same as above	Prepared to deliver provincial services at the request of Bands subject to 100% federal government funding less amount of provincial and local taxation revenue received from Indians.	Same as above
3. Existing Federal/Provincial Financial Agreements	Unconditional transfers of funds exclude responsibility for Indians by Province	----->	----->	----->	----->
4. Section 88 of the Indian Act (laws of general application)	Does not transfer responsibility to the provinces; section only enables provincial action.	----->	----->	----->	----->

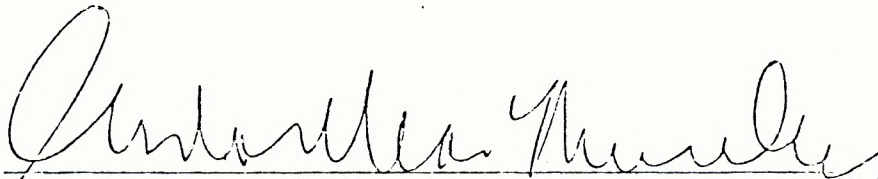
with the Federal Government this must be within a framework of full federal responsibility and appropriate consultation with Indian people.



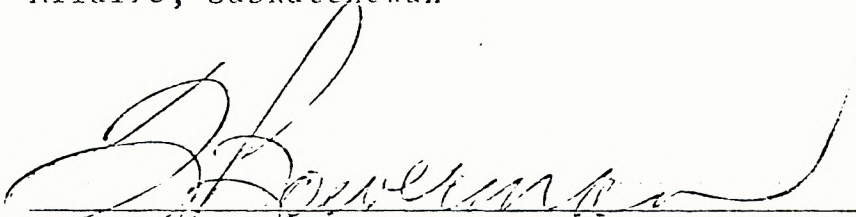
L. Allan Williams, Minister of Labour,
British Columbia



Donald J. McErimmon, Minister Responsible
for Native Affairs, Alberta



Gordon S. MacMurchy, Minister of Municipal
Affairs, Saskatchewan



G. R. (Ted) Bowerman, Minister of
Environment, Saskatchewan



A. Brian Ransom, Minister of Mines,
Resources and Environmental Management,
Manitoba

Section 88 of the Indian Act does not confer responsibility on the provinces for the delivery of services to Indians. Furthermore, established programs financing, equalization payments and other such cost-sharing agreements (i.e. those not related to specific programs or delivery of services to Indians) are transfers of funds to areas of provincial jurisdiction and in no way represent an undertaking of specific program obligations by provinces.

4) Indian Land Issues

Provinces with unfulfilled treaty land entitlements are attempting to finalize their respective commitments.

At the same time we are concerned about the Federal Governments stated policy that it would not exercise its authority under section 35 of the Indian Act to expropriate in cases where reserve lands are demonstrably required for public purposes except upon agreement for negotiated transfer with the Indian Band.

CONCLUSION

We recommend that in the future provinces become more aggressive in pressing the Federal Government to fulfil its responsibilities for Indian people. The provinces should not be content to see the effects of current trends continued. We recommend that the premiers raise these issues as a priority matter in an appropriate First Ministers' forum and seek adherence of federal and other provincial governments to the following principles:

- 1) The Federal Government continues to have a special responsibility for Indians and Indian lands.
- 2) The Federal Government cannot transfer this responsibility unilaterally in whole or in part to provinces.
- 3) While some provinces may wish to negotiate special program delivery and cost-sharing arrangements

1) Constitutional Responsibility

The Federal Government under section 91 (24) of the British North America Act has exclusive legislative authority in relation to Indians and lands reserved for Indians. This responsibility includes all Indians, both on and off reserves. If the Federal Government chooses not to fully exercise its jurisdiction under section 91 (24), there is no legal obligation on the part of provinces to fill any vacuum in federal programming.

2) Federal Attempts to Transfer its Indian Responsibilities

During the past two decades there have been recurring attempts on the part of the Federal Government to shift to the provinces responsibilities for the delivery of programs to Indians. In 1969, a federal White Paper proposed full provincial involvement in the delivery of services but was withdrawn. Since 1969 Federal Government attempts to transfer its Indian program delivery responsibilities have continued but without reference to a clearly articulated policy. This has resulted in significant transfers of program delivery responsibilities to the provinces together with associated costs. The provinces are concerned that the Federal Government, often under the guise of fiscal restraint, is making various Indian policy decisions which will seriously affect the Provinces.

3) Provincial Involvement

Many of these developments have proceeded without prior provincial consultation or agreement. Unilateral actions have created problems for the provinces and led to fears among many Indian groups that the Federal Government is attempting to evade its constitutional responsibilities with respect to Indians and Indian lands.

As a result of the void created by Canada, provinces have become involved in assisting Indian people by expanding their involvement in the delivery of services and in some cases through their approaches to unfulfilled treaty land entitlements.

FROM: Hon. L. A. Williams, Minister of Labour, British Columbia
Hon. Dr. D. J. McCrimmon, Minister Responsible for Native
Affairs
Hon. Gordon MacMurchy, Minister of Municipal Affairs,
Saskatchewan
Hon. Ted Bowerman, Minister of Environment, Saskatchewan
Hon. A. Brian Ransom, Minister of Mines, Resources and
Environmental Management, Manitoba

TO: Hon. W. R. Bennett, Premier of British Columbia
Hon. Peter Lougheed, Premier of Alberta
Hon. Allan Blakeney, Premier of Saskatchewan
Hon. Sterling Lyon, Premier of Manitoba

Re: Ministerial Meetings on Indian Matters

BACKGROUND

Pursuant to the Western Premiers' meeting of April 1976, a committee of Ministers with responsibilities for dealing with Indian matters was established to examine the approaches of each province with respect to Indian issues and, if possible, to develop common western positions.

Since then there have been three meetings of the Ministerial Committee. At one of these meetings, the Province of Ontario was represented by the Provincial Secretary for Resource Development, the Honourable Rene Brunelle, who attended as a contributing observer.

The exchanges by the provinces served to identify specific concerns with respect to federal programs and services for Indian people located on or off Indian reserves, as well as the relationship that exists between the governments and the Indian people.

SUMMARY OF FINDINGS

The chart attached to this memorandum summarizes areas of agreement between the four provinces and identifies provincial positions. Some common provincial views are set out in the following sections.

The western provinces stated that they are willing to explore alternative methods of program financing which may hold promise of achieving these goals, such as expanded, adequately-equalized tax transfers.

(3) Rationalization and simplification-- The Fiscal Arrangements should respect the jurisdictional responsibilities of the federal and provincial governments and should avoid further overlap and duplication. At the same time, it is recognized that continuing federal financial support is essential in a number of key program fields. In this connection, the western provinces noted with concern suggestions that the Federal Government might be considering placing greater emphasis on direct, centralized program delivery in order to assert its "presence" in such fields as post-secondary education. Such an intrusion into provincial jurisdictions and resulting overlap and duplication could be extremely disruptive and damaging to programming, and could contribute to costly inefficiencies which would add to the demands on the taxpayers of Canada.

The Premiers also noted that Ottawa apparently believes it may not be receiving satisfactory and adequate recognition for the contributions it is making toward the costs of certain programs. They stated that they had not yet received specific suggestions from the Government of Canada concerning the measures it would see as appropriate to provide the "visibility" which it seems to want.

(4) Clarity of responsibilities -- Renewed Fiscal Arrangements should be entered into on the basis of a clear, unambiguous understanding on the part of both orders of government as to the provincial program obligations associated with the federal E.P.F. transfers. The respective obligations of both orders of government should not be open to misunderstandings or misinterpretation, thereby creating unnecessary and undesirable tension and conflict between governments.

(5) Fiscal responsibility -- The western provinces believe that the Federal Government should not seek to resolve its budgetary problems by transferring substantial expenditure obligations onto provincial and local governments. They stated that the appropriate way to improve programming without excessive costs and significant added burdens for Canadian taxpayers is for Ottawa and the provinces to work closely together in developing mutually-acceptable improvements to the Fiscal Arrangements where it can be demonstrated that they are required.

(6) Co-operation and genuine federal-provincial consultation -- While it is important that Parliament have a reasonable opportunity to consider and debate changes in the Fiscal Arrangements, it is also imperative that the two orders of government directly involved have adequate time for consultation and negotiation.