

Appendix 5E: Excerpts from the Draft Legal Text of the Charlottetown Accord 9 October 1992

Proposed Amendment to the

Constitution Act, 1867

12. The said Act is further amended by adding thereto, immediately after section 95 thereof, the following...[section]:...

95E. In the context of section 91A, the legislature of Alberta may make laws, and the Parliament of Canada may make laws, in relation to the Métis in Alberta and to Métis settlement lands in Alberta and, where such a law of Alberta and a law of Parliament conflict, the law of Parliament prevails to the extent of the conflict.

Proposed Amendment to the

Alberta Act

23. The Alberta Act is amended by adding thereto, immediately after section 24 thereof, the following section:

Definitions

24.1 (1) In this section,

“Métis Settlements General Council”

“Métis Settlements General Council” means the Métis Settlements General Council incorporated by the Métis Settlements Act (Alberta);

“Métis settlement land”

“Métis settlement land” means land held in fee simple by the Métis Settlements General Council under letters patent from Her Majesty in right of Alberta.

Expropriation

(2) The fee simple estate in Métis land, or any interest in it less than fee simple, may not be acquired through expropriation by

(a) any person,

(b) Her Majesty in right of Alberta, or

(c) Her Majesty in right of Canada, except with the consent of the Governor in Council after consultation between the Government of Canada and the Métis Settlements General Council, but an interest less than fee simple may be acquired in that land in a manner permitted by the Métis Settlements Land Protection Act (Alberta).

Exemption from seizure

(3) The fee simple estate in Métis settlement land is exempt from seizure and sale under court order, writ of execution or any other process whether judicial or extra-judicial.

Restriction on Legislature

(4) No Act of the Legislature may

(a) amend or repeal the Métis Settlements Land Protection Act (Alberta),

(b) alter or revoke letters patent granting Métis settlement land to the Métis Settlements General Council, or

(c) dissolve the Métis Settlements General Council or result in its being composed of persons who are not settlement members, without the agreement of the Métis Settlements General Council.

Restriction on Parliament of Canada

(5) No Act of the Parliament of Canada may dissolve the Métis Settlements General Council or result in its being composed of members who are not settlement members without the agreement of the Métis Settlements General Council.

Application of laws

(6) Nothing in this section shall be construed as limiting

(a) the application of the laws of Alberta or Canada to, or

(b) the jurisdiction of the Legislature of Alberta or the Parliament of Canada to enact laws in and for Alberta applicable to, Métis settlement land and any activities on or in respect of that land, except to the extent necessary to give effect to this section.

Non-derogation

(7) Nothing in this section shall be construed so as to abrogate or derogate from any rights referred to in Part II of the Constitution Act, 1982.

