

*Statement of Treaty Issues:
Treaties as a Bridge to the Future*



October, 1998

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October 23, 1998

Chief Perry Bellegarde
Federation of Saskatchewan
Indian Nations

The Honourable Jane Stewart
Minister of Indian Affairs and
Northern Development

Re: *Statement of Treaty Issues: Treaties as a Bridge to the Future*

The Office of the Treaty Commissioner has completed the first phase of exploratory treaty discussions with the Federation of Saskatchewan Indian Nations and the Government of Canada, with the Government of Saskatchewan observing the process. I am honoured to present the *Statement of Treaty Issues: Treaties as a Bridge to the Future*, which chronicles the exploratory treaty discussions to date and presents a forward-looking approach to relations between Canada and the First Nations in Saskatchewan.

A significant level of consensus between the parties on a number of treaty issues is reflected in the Statement. The treaty issues we have highlighted include a history of Treaties 4, 5, 6, 8 and 10 in Saskatchewan, the seven specific treaty issues included in the work plan of the Exploratory Treaty Table, and common understandings about the treaty relationship. To carry these issues into the future, the parties also devoted considerable time to identifying the steps that they feel are needed to advance the treaty discussions and to build on the treaty partnership in Saskatchewan.

The parties, through the Office of the Treaty Commissioner, adopted guiding principles for their conduct at the table. The parties committed to promoting efficient, effective and orderly discussions on treaty issues and to carry out those discussions in good faith, sincerity and mutual respect. Their commitment to those principles was demonstrated in phase one of the process. I commend the parties for observing those principles and look forward to seeing the parties display the same level of commitment and honourable conduct as the process continues.

The participation of Treaty First Nations' Elders was also of primary importance. Their wisdom and guidance was instrumental in assisting the parties in building common understandings and in promoting the spirit of flexibility and mutual recognition. I recommend that elders continue to have meaningful participation.

The *Statement of Treaty Issues* is a significant milestone in an historic journey towards achieving a common understanding of the treaty relationship and its practical meaning for a better future for all people of our province. I look forward to your timely response to this Statement in order that we may finalize our plans for the continuing work of the Exploratory Treaty Table. In particular, I seek your confirmation that the common understandings on the principles of the treaty relationship will serve as a guide for the parties in the continuing work of the Exploratory Treaty Table and in the implementation of Treaty First Nations governance in Saskatchewan.

Treaties are clearly our bridge from the past to the future – we must now forge ahead and envision a new reality, one that will ensure a prosperous, stable, and healthy environment for all people in Saskatchewan. I encourage the parties to continue to strive for understanding, and to continue to seek guidance and wisdom in their quest to find mutually beneficial solutions.

A handwritten signature in black ink, reading "David Arnot". The signature is written in a cursive style with a prominent loop at the end of the last name.

The Honourable Judge David M. Arnot
Treaty Commissioner for Saskatchewan

Acknowledgements

During the past year, the Office of the Treaty Commissioner, the Federation of Saskatchewan Indian Nations, the Government of Canada, and the Government of Saskatchewan embarked on an historic process of dialogue on the meaning of Treaties Numbered 4, 5, 6, 8 and 10 in Saskatchewan. The results of the discussions are presented in the *Statement of Treaty Issues: Treaties as a Bridge to the Future*.

This work would not have been possible without the assistance of many individuals who shared their knowledge and expertise. During the past year, we participated in treaty forums throughout Treaty 4, 5, 6, 8 and 10 territories in Saskatchewan and had the honour of meeting with over 160 Treaty Elders representing the Cree, Saulteaux, Assiniboine, and Dene Nations. During our time spent with the elders, we heard firsthand the oral history of the spirit and intent of the treaties.

Our knowledge and understanding of the treaties in Saskatchewan was further enhanced by two research reports commissioned by the Office of the Treaty Commissioner. We would like to acknowledge Harold Cardinal and Walter Hildebrandt, authors of *My Dream: That We Will Be One Day Clearly Recognized as First Nations*, and Professors James Miller, Frank Tough, and Arthur Ray, authors of *Bounty and Benevolence: A Documentary History of Saskatchewan Treaties*, for their noteworthy contributions in this regard. As well, we extend special thanks to Dr. George Ivany, President of the University of Saskatchewan, for his support.

In addition to the historical research, our process benefited tremendously from the commitment of the parties' representatives and the wisdom of the Treaty Elders who participated in the Exploratory Treaty Table discussions. We extend our gratitude to Elder Gordon Oakes from Nekaneet First Nation, Elder Jimmy Myo from Moosomin First Nation, Elder Danny Musqua from Keeseekoose First Nation, Senator Hilliard Ermine from Sturgeon Lake First Nation, Elder Alma Kytwayhat from Makwa Sahgaiehcan First Nation, Senator Frank McIntyre from English River First Nation and Senator Henry Whitstone from Onion Lake First Nation for their support and guidance.

We further acknowledge the work and dedication of Chief Irvin Starblanket, Mary Ellen Turpel-Lafond, Leanne Daniels, Helen Semaganis, Marian Dinwoodie, Lloyd Martell, Anita Gordon-Murdoch, Carole Sanderson, Delbert Wapass and Albert Angus from the Federation of Saskatchewan Indian Nations; David Hawkes, Veda Weselake, and James Gilbert from the Government of Canada; and Ernie Lawton and John Reid from the Government of Saskatchewan. The parties' representatives demonstrated, through their efforts in working together, that we are in fact closer to sharing a common vision of a treaty partnership.

We also acknowledge the commitment of the staff at the Office of the Treaty Commissioner: Kay Lerat, Tracey Robinson, Sheldon Krazowski, Nicole Jule, and Sandra Shpyth. We further acknowledge the advice proffered by the legal counsel to the Office of the Treaty Commissioner, Mr. James Scharfstein.

1.Introduction

1.1 A New Paradigm for Crown - First Nations Relations in Saskatchewan

We are witnessing profound change in relations between the federal and provincial governments and First Nations in Saskatchewan. These changes are historic. A paradigm shift is occurring in our relations – from the paternalistic approach of the *Indian Act*, to a paradigm built upon the partnership of treaty relationships. We are charting a new course for relations between Treaty First Nation governments and other people in Saskatchewan, a course which requires us to take three steps: to acknowledge the mistakes and injustices of the past, as in the federal government’s “Statement of Reconciliation” (see below); to reaffirm our commitment to the historic treaties in Saskatchewan; and to build practical, forward-looking arrangements based on existing treaty relationships.

In its response to the *Report of the Royal Commission on Aboriginal Peoples*, the federal government acknowledged in its “Statement of Reconciliation” the errors of the past:

Sadly, our history with respect to the treatment of Aboriginal people is not something in which we can take pride. Attitudes of racial and cultural superiority led to a suppression of Aboriginal culture and values. As a country, we are burdened by past actions that resulted in weakening the identity of Aboriginal peoples, suppressing their languages and cultures, and outlawing spiritual practices. We must recognize the impact of these actions on the once self-sustaining nations that were disaggregated, disrupted or even destroyed by the dispossession of traditional territory, by the relocation of Aboriginal people, and by some provisions of the *Indian Act*. We must acknowledge that the result of these actions was the erosion of the political, economic and social systems of Aboriginal people and nations.¹

The Government of Canada has recognized that policies that sought to assimilate Aboriginal people were not the way to build a country.²

National Chief of the Assembly of First Nations, Phil Fontaine, responded on behalf of the First Nations of Canada. Following the federal government's response to the report of the Royal Commission, Chief Fontaine offered this comment:

It took some courage on the part of the Minister and government to take this historic step, to break with the past, and to apologize for the historic wrongs and injustices committed against our peoples. It is therefore a great honour for me, on behalf of the First Nations, to accept the apology of the Government and people of Canada. Let this moment mark the end of paternalism in our relations, and the beginning of the empowerment of First Peoples; the end of assimilationist policies, and the beginning of mutual respect and co-operation. This, after all, was the intention of our forefathers who agreed in the historic wampum treaty to paddle their canoes in separate but parallel paths. I invite all Canadians to share in this momentous occasion by joining hands with us as we begin this journey.³

The first element in Canada's new "Aboriginal Action Plan" is "Renewing the Partnerships." This includes affirming the treaty relationship between Canada and First Nations:

A vision of the future should build on recognition of the rights of Aboriginal peoples and on the treaty relationship. Beginning almost 300 years ago, treaties were signed between the British Crown and many First Nations living in what was to become Canada. These treaties between the Crown and First Nations are basic building blocks in the creation of our country.⁴

The treaties between Aboriginal people and the Crown were key vehicles for arranging the basis of the relationship between them....The Government of Canada affirms that treaties, both historic and modern, will continue to be a key basis for the future relationship.⁵

In moving forward, treaties and the relationship that they established can guide the way to a shared future. In partnership with the Government of Saskatchewan, the Government of Canada and Treaty First Nations are prepared to negotiate agreements to achieve self-government building on the treaty relationship. The rights contained in these agreements may be protected as Section 35 rights pursuant to the *Constitution Act, 1982* ⁶, if the parties so desire. According to the federal government:

This means developing practical arrangements for self-government that are effective, legitimate and accountable; that have the strength to build opportunity and self-reliance; and that can work in a co-ordinated manner with other governments.⁷

This approach is shared by the Government of Saskatchewan. The Honourable Berny Wiens, Saskatchewan Minister of Intergovernmental and Aboriginal Affairs described the provincial government's position in the following terms:

The Government of Saskatchewan recognizes and respects the primary relationship that exists between First Nations and the Government of Canada by way of the treaties. While these discussions [at the Treaty Table] are between Canada and First Nations, the province welcomes the opportunity to be an “observer” at the table. The province is then in a better position to fully understand the issues from a treaty perspective in order to work in partnership with Canada and First Nations to find practical solutions to best serve the interests of all Saskatchewan residents, Indian and non-Indian peoples alike.⁸

1.2 The Development of the New Course in Saskatchewan

After the 1993 federal election, the Government of Canada began reviewing its policies towards Aboriginal peoples.⁹ By the summer of 1995, the Minister of Indian Affairs and Northern Development received the necessary approvals within the federal cabinet for a new policy affecting Aboriginal people. The Government of Canada recognized the inherent right of self-government as an existing Aboriginal right within Section 35 of the *Constitution Act, 1982*. Canada also acknowledged that the inherent right may find expression in treaties and reaffirmed its commitment to build a new partnership with First Nations. The Minister of Indian Affairs was also mandated to undertake a number of exploratory discussions on the historic treaties, including these discussions in Saskatchewan.¹⁰ Canada is now exploring the implications of moving forward, building on the treaty relationship in Saskatchewan.

The origins of this new approach can also be seen in the decision to renew the Office of the Treaty Commissioner in Saskatchewan. The first Office of the Treaty Commissioner in Saskatchewan was created in 1989, with a mandate to review treaty issues surrounding treaty land entitlement and education. The successful search for a way of resolving outstanding treaty land entitlement issues in Saskatchewan is in large part due to the efforts of that Office.

1.3 Reconstituting the Office of the Treaty Commissioner

Based on successful efforts in the past, the Federation of Saskatchewan Indian Nations and the Government of Canada concluded that expanding the mandate and more clearly establishing an impartial role for the Office of the Treaty Commissioner would create an effective forum for advancing their treaty discussions. On October 31, 1996, Chief Blaine Favel of the Federation of Saskatchewan Indian Nations (FSIN) and The Honourable Ron Irwin, Minister of Indian Affairs and Northern Development, signed a Memorandum of Agreement for the renewal of the Office of the Treaty Commissioner (OTC). The OTC was subsequently reconstituted for a five-year period effective January 1, 1997, with Judge David M. Arnot appointed as the Treaty Commissioner.

The Honourable Roy Romanow, Premier of Saskatchewan, witnessed the signing of the Memorandum of Agreement at a Chiefs’ Legislative Assembly during the 50th Anniversary celebrations of the Federation of Saskatchewan Indian Nations. This was a significant moment for Treaty First Nations in Saskatchewan. It was the first time that the governments of Canada and Saskatchewan jointly recognized the inherent right of self-government.

The Parties agreed on the following principles to guide their work of establishing processes to discuss treaty and jurisdictional issues including the Exploratory Treaty Table:

- The treaties are a fundamental part of the relationship between Treaty First Nations in Saskatchewan and the Crown.
- It is desirable to arrive at a common understanding of Treaties 4, 5, 6, 8 and 10 as they apply in Saskatchewan.
- There are differences of views over the content and meaning of the treaties, which the parties are committed to exploring. The Treaty First Nations believe the treaties have not been implemented according to their spirit and intent, including oral promises, while the Government of Canada relies primarily on the written text of the treaties as the embodiment of the Crown's obligations.
- Respect for aboriginal and treaty rights is an important part of maintaining the honour of the Crown in its relations with Treaty First Nations.
- A renewed Office of the Treaty Commissioner will be an effective intergovernmental mechanism to assist both parties in the bilateral process, and in the identification and discussion of treaty and jurisdictional issues.¹¹

The OTC was renewed as an independent body to co-ordinate and facilitate the bilateral process between the FSIN and the Government of Canada. Its mandate is to facilitate a common understanding between the FSIN and Canada on treaty rights and/or jurisdiction in the areas of: child welfare, education, shelter, health, justice, treaty annuities; hunting, fishing, trapping and gathering; and any other issues which the parties may place before it.

1.4 Work Plan of the Exploratory Treaty Table

The Minister of Indian Affairs and Northern Development and the Chief of the Federation of Saskatchewan Indian Nations signed a Joint Work Plan for the Exploratory Treaty Table discussions on July 22, 1996. The objectives included the following:

- to build on a forward-looking relationship that began with the signing of the treaties in Saskatchewan;
- to reach a better understanding of each other's views of the treaties and of the results expected from the exploratory treaty discussions; and
- to explore the requirements and implications of treaty implementation based on the views of the two parties.¹²

A total of eleven Exploratory Treaty Table meetings were held with representatives of the FSIN and the Government of Canada (including officials from the Department of Indian Affairs and Northern Development, the Department of Health, the Department of Justice, the Department of Heritage, and the Canada Mortgage and Housing Corporation). A list of meet-

ings and representatives is appended to this report.

Although the Exploratory Treaty Table is a bilateral table, the Province of Saskatchewan was represented at the table as an observer, acknowledging the special treaty relationship between First Nations and Canada. Since the work of the Treaty Table has direct relevance to the Government of Saskatchewan, and that government's co-operation is vital to implementing the treaty partnership, provincial representatives attended virtually every meeting of the Exploratory Treaty Table, and also participated in the discussions on occasion.

Throughout the eleven Treaty Table sessions, the parties explored a number of significant questions arising from the work plan. Key among these were:

- What common understandings exist? In what areas do common understandings need to be reached? How do the parties reach common understandings in these areas? How do the parties reach a better understanding of the spirit and intent of the treaties and the nature of obligations under treaties?
- What policy issues are raised by engaging in such a process? How can the parties ensure that addressing treaty issues will produce meaningful results in Treaty First Nations communities?
- What are the links between the treaty work and any jurisdictional arrangements the parties may negotiate?¹³

On October 31, 1996, Canada, Saskatchewan, and the FSIN signed a Protocol Agreement to establish a Common Table. This Table provides for trilateral processes and for regular meetings among the Chief of the FSIN, the federal minister of Indian Affairs and Northern Development, and the provincial minister of Intergovernmental and Aboriginal Affairs. The purpose of the Common Table is to facilitate effective processes for negotiating and implementing First Nations governance in Saskatchewan building on the treaty relationship, and for related jurisdictional and fiscal arrangements, in addition to discussions of treaty issues that affect all three parties. A Memorandum of Understanding among the three parties establishing a Fiscal Relations Table was also signed on August 5, 1997 to facilitate the negotiation of a new fiscal relationship among the parties in support of Treaty First Nations' governance. An associated Fiscal Relations Table Work Plan was signed by Canada, FSIN and Saskatchewan setting out the means by which the parties have undertaken to achieve these fiscal relations. The parties further established a Governance Table on August 26, 1998 to address the implementation of Treaty First Nations governance in Saskatchewan.

1.5 Mutual Respect and Partnership in the Exploratory Treaty Table Process

The new paradigm, of building on the treaty relationship, requires not only a fresh conceptual framework, it also requires a new way of working together. Canada and the FSIN agreed that discussions must take place in an environment of mutual respect among the treaty partners. In order to ensure appropriate conduct during the Exploratory Treaty Table meetings, the parties discussed and, through consensus, adopted a set of guiding principles for the

exploratory process. The link between the success of these exploratory discussions and the importance of conducting discussions in a respectful manner cannot be overstated. For this reason, it is useful to reproduce the guiding principles in this report.

- (1) The parties acknowledge that the principles of mutual recognition, mutual respect, reciprocity, and mutual responsibility shall apply to the proceedings and the processes of the Exploratory Treaty Table.
- (2) Discussions at the Exploratory Treaty Table will always respect the principles of ethical and honourable conduct.
- (3) The parties approach the Exploratory Treaty Table as partners.
- (4) The parties shall demonstrate in their discussions and deliberations mutual respect for each other and for the Office of the Treaty Commissioner.
- (5) The parties shall be guided by candor and good faith in both oral and written submissions to the Office of the Treaty Commissioner.
- (6) The parties agree to the sharing of information and expertise without undue restrictions.
- (7) The parties acknowledge the importance of flexibility and the necessity to avoid legal disputes.
- (8) The parties acknowledge that First Nations have distinct perspectives and understandings, deriving from their cultures and histories and embodied in First Nation languages.
- (9) The parties acknowledge that Elders are keepers and transmitters of oral histories, and therefore, must play an integral role at the Exploratory Treaty Table.
- (10) The parties agree that knowledge that is transmitted orally in the culture of First Nations must be accepted as a valuable resource along with documentary evidence and other sources.¹⁴

The parties at the Exploratory Treaty Table have acted in a way which breathes life into these guiding principles of mutual respect. All sessions of the Treaty Table were opened with a prayer or pipe ceremony consistent with First Nations' traditions and protocols, in order to respect the solemnity of the treaties. Treaty Elders have played an important and active role in discussions at the Exploratory Treaty Table, and were present with the FSIN delegation at all meetings of the table. The parties have relied on oral history, archives, records and other written works.

The importance of oral history to the understanding of the treaty relationship led the parties to undertake a series of meetings with Treaty Elders, chaired by the Treaty Commissioner,

in each of the five treaty areas of Saskatchewan. The series of seven Treaty Table sessions, totalling 15 days, were held with Treaty Elders during the fall of 1997; in total, the parties met with over 160 Treaty Elders. Meetings took place in Nekaneet First Nation, Fort Qu'Appelle, Jackfish Lake, Meadow Lake, Fond du Lac First Nation, Hatchet Lake First Nation, Black Lake First Nation, Nipawin and La Ronge. The oral history of Treaty Elders was recorded on videotape and audiotape so that a permanent record of this history has been made. It will become clear in the next section of this report, on the history of the five treaties in Saskatchewan, that the collection of this oral history was crucial to completing the Statement of Treaty Issues.

The Office of the Treaty Commissioner commissioned two studies to support the work of the Exploratory Treaty Table. One report, "My Dream – That We Will Be One Day Clearly Recognized as First Nations," co-authored by Harold Cardinal and Walter Hildebrandt, focuses on the underlying principles of treaty-making and the treaty relationship in Saskatchewan, based on the oral history relayed by the Treaty Elders. A second report, "Bounty and Benevolence: A Documentary History of Saskatchewan Treaties," co-authored by Frank Tough, Jim Miller and Arthur J. Ray, examines the documentary record of the five treaties.

The exploratory nature of the discussions at the Treaty Table reflected the partnership approach. Each party committed itself to exploring issues with the other party before taking action. This enabled the parties to have far-ranging discussions on questions identified in the workplan.¹⁵ The parties confirmed that the focus of the discussions was to explore each other's understandings of the treaties and the common ground that might be found in their views. Both parties affirmed that they had no intention of renegotiating treaties, but that they would explore together the requirements and implications of implementing the treaty relationship. The parties viewed the Exploratory Treaty Table discussions as a foundation for future discussions, for policy development, and for renewed relations.

The first phase of the exploratory treaty discussions involved identifying principles and other common understandings underlying the treaty relationship. This report highlights the parties' common understandings about the treaty relationship and the parties' views on the specific treaty issues. The common understandings can provide a conceptual framework for the principles underlying the treaty relationship which can guide the parties' ongoing discussions at the various tables.

This report is organized in the following manner. An historical overview of five treaties in Saskatchewan – from both oral and documentary sources – follows this introduction. The report then moves to explore how the parties approached the Exploratory Treaty Table discussions, and from there proceeds to examine the policy implications of building on the treaty relationship in each of the seven subject areas. Based on the findings from these explorations, the report then identifies the parties' common understandings about the treaty relationship. The report then moves on to explore how treaties may be seen as a bridge to the future. Following the conclusion, several appendices are included identifying the schedule of Exploratory Treaty Table meetings and Treaty Elders' Forums, the participants at the Exploratory Treaty Table, the participants at the Treaty Elders' Forums, and basic data on the five treaties in Saskatchewan.

Endnotes

¹ “Gathering Strength – Canada’s Aboriginal Action Plan”, Minister of Indian Affairs and Northern Development, Ottawa, 1997, catalogue no. R32-189-1997E, p.4.

² *Ibid.*, p.5.

³ Remarks by National Assembly of First Nations Chief for Delivery at the Royal Commission on Aboriginal Peoples Response, January 7, 1998.

⁴ “Gathering Strength”, p.10.

⁵ *Ibid.*, p.17.

⁶ *Constitution Act, 1982*, Section 35 reads: “(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed; (2) In this Act, ‘aboriginal peoples of Canada’ includes the Indian, Inuit and Metis peoples of Canada; (3) For greater certainty, in subsection (1) ‘treaty rights’ includes rights that now exist by way of land claims agreements or may be so acquired; (4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.”

⁷ “Gathering Strength”, p.7.

⁸ Speech by the Honourable Berny Wiens at Treaty Awareness Day, Wanuskewin Heritage Park, Saskatoon, Saskatchewan, November 21, 1997.

⁹ The seeds for charting a new course can be found in the federal Liberal Party “Red Book,” entitled “Creating Opportunity – The Liberal Plan for Canada”. It made an election commitment to forge new partnerships with First Nations in Canada and to “... seek advice of treaty First Nations on how to achieve a mutually acceptable process to interpret the treaties in contemporary terms, while giving full recognition to their original spirit and intent” (p.98).

¹⁰ The historic treaties referred to here include those entered into prior to the *Constitution Act, 1867* and the numbered treaties and adhesions. They do not include modern treaties and land claims agreements such as those with the James Bay Cree and Naskapi of Quebec, with the Inuvialuit of the western Arctic, or with the Council of Yukon Indians.

¹¹ Memorandum of Agreement between Her Majesty in the Right of Canada represented by the Minister of Indian Affairs and Northern Development and the Federation of Saskatchewan Indian Nations represented by the Chief of the Federation of Saskatchewan Indian Nations dated October 31, 1996, p.2.

¹² Table on Exploratory Treaty Discussions Joint Workplan, July 22, 1998, p.2.

¹³ *Ibid.*, pp.3-4.

¹⁴ Treaty Table Meeting Four of the Parties, Record of Decisions, June 26-27, 1997, p.1.

¹⁵ See Section 4, “Policy Implications of Building on the Treaty Relationship” pp.70-98 for a summary of the discussions.

2. The Five Treaties in Saskatchewan Historical Overview

The events of the relationship between First Nations and the newcomers are recorded and represented quite differently in the two cultures. They use different methods, different forms, and different contexts.

The purpose of this section is to provide an overview of those past events and experiences from the perspective of the First Nations and the perspective of the newcomers. Because many people know little about the treaties in Saskatchewan, this section provides an overview of the main events leading up to treaty-making and the important understandings about the nature of the treaty relationship.

In setting out the histories of the treaty relationship, it is essential to respect the perspectives of both parties. Relying on one perspective alone would lead to an incomplete and unbalanced understanding of the treaty relationship.

2.1 Written History – Western Concepts

Although the history of the soldiers, traders and settlers who came to North America is different from that of First Nations, it would be unwise to typecast the two as polar opposites. It is true that Europeans relied much more on written documents for an account of past events, although at the time of treaty-making much of the population was still illiterate. But it was also the case that oral history, unwritten conventions and creation stories influenced Western concepts of history. They still do. For example, although we have the *Constitution Act, 1867* (formerly known as the *British North America Act*) and the Charter of Rights and Freedoms, much of our constitution remains unwritten, as does that of Great Britain. Similarly, often the “corporate memory” of an organization is not in its formal reports but in its customary practices and in the oral history of its long-term employees.

Non-Aboriginal history is rooted in Western scientific methodology, which is focused on objectivity. The observers attempt to insulate themselves from their own values, norms, cultures and traditions, in order that their recording of events will be as “value-free” as possible. The observers are to distance themselves in time from the events being described, as well as from their readers. In the Western tradition, then, history is to be purely secular, dividing what is scientific from what is religious or spiritual. As part of Western “value-free” scientific methodology, there is an emphasis on scholarly documentation and written records, with detailed citation of original source material.

Despite the attempts at objectivity, Western history is not simply a neutral description of a series of events. It is influenced by the values and ideas of the era in which it was written. For example, the human being is the focus of attention in the Western humanist intellectual tradition. It is often the story of man “conquering” new territories, of “harnessing” nature, of “triumphing” above all other creatures. The human being is portrayed as the most highly evolved form of life, which all other life forms must serve.

In the western European and non-Aboriginal Canadian tradition, history is often conceived of as linear in nature, with events marching through time, from past, to present, to future, a conception influenced by notions of social progress and evolution. From this perspective, it follows that societies evolve, grow, and progress from one stage to the next. Societies which were industrialized, literate, and urbanized, with well developed market economies were believed to be superior to those that were not. This led social reformers in the Western tradition to want to help raise the less fortunate groups to their own level.

Because Western history is aware that the interpretation of events in a particular era is encased in the ideas and philosophy of that time, it is constantly rejecting earlier interpretations of past events. The interpretation of Western history evolves: it recognizes the limitations of its past interpretations. Thus, the earlier view that some societies are at a “higher” stage of development than others is now discredited, replaced with a perspective that looks at societies as different but equal. Western history will continue to evolve, such that its interpretation of treaty history in this document will no doubt be challenged in the future.

Since all history is imbued with values, however, be they from western humanism or the spirituality of First Nations, this affects not only what is recorded – whether orally or in writing – but also how it is recorded. This point was reinforced in the research commissioned by the Office of the Treaty Commissioner, when the researchers conclude that:

Nevertheless, the documentary records connected to treaty-making events strongly indicate that the written version of any treaty text is an incomplete and inadequate representation of the understandings and agreements made at treaty talks.¹

It is important in addressing this history, therefore, to look at all sources of information, written and oral, if we are to understand the different perspectives of the treaty partners. All of these sources are required to develop a complete and balanced history of the treaty relationship.

2.2 Oral History - First Nations' Concepts

First Nations' Elders say that oral history begins with the Creator. The nature of the relationship that the First Nations had with the Creator is expressed by the Cree term, *Nista Mee Magan* which Elder Jacob Bill describes as meaning:

...the one who first received our ways - ways that we use to communicate with our Creator and His Creation...Nations that were here first were given a way to pray...when a person is praying, he thinks about the first generation of First Nations...there he has a sense of identity and recognition and prays to them for help [with his prayers] ...We remember the first born in our prayers because they were the ones who first received the blessing from the Creator.²

Elders informed the Exploratory Treaty Table that contained within First Nations' oral history are the laws given by the Creator. A fundamental law that respects the sacredness of these Creator-made laws is the requirement that one cannot embellish, add to, or change these laws. The Elders who informed the Exploratory Treaty Table qualified their statements in two ways. Firstly, they identified the source of their knowledge and secondly, they repeated only that which they heard, no more and no less. The parties have agreed that further research is required on the protocols and methodology of oral history research in Saskatchewan.

Oral history preserves traditions, transfers knowledge, and records events. The elders describe the process as very rigorous and disciplined and as one which emphasizes the requirement for preserving accuracy, precision and procedural protocols. This procedural and substantive knowledge is passed from one generation to the next. The process of preserving and transferring traditional laws and procedures is a solemn obligation and serious commitment. It is a life-long endeavour that select individuals accept. Speaking at a Treaty Elders' Forum in 1997, Elder Norman Sunchild of the Thunderchild First Nation explained it this way:

...Our Old Ones spent their lifetime studying, meditating, and living the way of life required to understand those traditions, teachings and laws in which the treaties are rooted. In their study, they rooted their physical, and spiritual beings directly on Mother Earth as a way of establishing a "connectedness" to the Creator and his creation. Through that "connectedness," they received the conceptual knowledge they required, and the capacity to verbalize and describe the many blessings bestowed on them by the Creator. They were meticulous in following the disciplines, processes, and procedures required for such an endeavour.³

The First Nations' perspective about the treaties and the treaty relationship begins with the fundamental relationship between the Creator and the First Peoples. Elders informed the Exploratory Treaty Table that to understand the treaties and the treaty relationship one must have some understanding of the First Nations' spiritual traditions. This is because the spiritual traditions contain the First Nations' world-views, customs, and laws that are reflected in and are a fundamental component of the treaties and the treaty relationship.

This belief system contains a number of sacred ceremonies, practices, and customs that

show respect for the relationship between the Creator and the individual. The nature of a ceremonial lodge and the encampment surrounding the lodge both serve as affirmative statements of the unity of the First Nations with their Creator and their spiritual institutions. The oneness of the First Nations' citizen with the Creator is extended to the spiritual, social and political institutions of their Nations. The circle is a statement of allegiance, loyalty, fidelity and unity by both the nation and its citizens.⁴ The doctrine of relationships and the laws of relationships are part of the circle.

First Nations believe principles of good relations were amongst the Creator's first gifts.⁵ According to the elders, the Creator established various types of relationships including blood relatives, relatives by marriage, and relatives through traditional adoption. Certain words and phrases in the First Nations' languages contain the concepts of how First Nations would live together and build relations among themselves, and with others such as with the Crown and her subjects. In Cree these concepts include: *Askeew Pim Atchi howin* (making a living off the land); *Wah koooh toowin* (laws of familial relationships and the respective duties and responsibilities); *Meyo Weecheh towin* (principles of good relations); and *Wi Taski Win* (living together on the land in harmony). The concepts and principles of good relations expanded the circle to include family, community, and other First Nations, and beyond that to relations with the newcomers. These principles embodied the essential elements for constructing good relations. There were also well established spiritual traditions, which became an essential part of creating diplomatic and trade relations with the Europeans.

The view of Creator-made relations carried through into First Nation's relations with the Europeans upon their arrival and into the period when treaties were concluded. Elders continue to explain that these first principles of good relations underlying Treaty remain today embodied in the unalterable foundation of the relationship established between Treaty First Nations and the Crown. Understanding the treaties and treaty relationship therefore requires a look at the histories of both parties to the treaties.

At the time of treaty-making, First Nations looked to their spiritual traditions for guidance and strength. Elders today invariably emphasize the significance of these traditions. In both eras these traditions, beliefs and ceremonies are central to the survival of First Nations as distinct peoples. Elders reaffirm the First Nations' belief that the starting point for discussions about treaties lies in the relationship that was established with the Creator at the beginning of time.⁶ When relations were formed, they were seen as spiritual undertakings, made before and with the Creator. For this reason the treaties and the treaty relationship were regarded as unalterable arrangements of the highest order. The nature of these undertakings was inviolably sacred and therefore cannot be breached.⁷

Many Elders who provided First Nations oral history to the Exploratory Treaty Table emphasized that treaties are about the concepts of sharing, generosity, love, and kindness – that is, treaties are about, in Cree, *Askee Pim Atchi Howin*, *Wah koooh toowin*, *Meyo Weecheh towin*, and *Wi Taski win*. By using the pipe, the Crown was seen to acknowledge these concepts, and to accept the responsibilities of coming into the land as a brother or cousin. “[the Queen had] offered to be our Mother and us to be her children and to love us in the way we want to live.”⁸ Both parties had committed themselves to a mutual life-giving relationship. The nature of the treaty relationship between the parties is familial as well. In an interview on December 21, 1997, Elder Simon Kytwayhat stated:

...when our cousins, the Whiteman, first came to peacefully live on these lands “*wetaskematchik*” with the indigenous people, as far as I can remember, Elders have referred to them as *kitchewamnouwahk* [our first cousins]. It was a traditional adoption in itself. I have heard [from my elders] that the Queen came to offer a traditional adoption to us as our mother. “You will be my children,” she had said.⁹

2.3 First Nations’ Diplomacy prior to European Contact

North America was home to hundreds of distinct First Nations, differing greatly in their political organizations, economic and social systems, and environments. First Nations communities ranged from being large populated centers to smaller communities of farmers, hunters, and fishers. Some communities were dispersed and autonomous while other First Nations were organized into vast confederacies.¹⁰ As distinct as they were, First Nations were able to work cooperatively and respected differences. Diversity of language and culture did not prevent First Nations from developing shared diplomatic protocols which allowed for a free flow of trade on a continental scale. The fur trade adopted the east-west routes that had been established by First Nations long before European arrival.

First Nations generally shared a common approach to alliance-building. Alliances were often modelled on the family unit and were solidified and maintained through arranged marriages, adoption, or the exchange of gifts. The family circle expanded to accommodate the allied Nations, and those new members of the alliance assumed kinship roles such as *brother to brother*, and *cousin to cousin*. Each role carried certain responsibilities. Overall, the family model implied a spirit of mutual respect, generosity, responsibility and non-interference. Through family-based alliances, First Nations gained opportunities to share each other’s resources and knowledge. Each nation could safely travel, visit, and trade in the territories of its allies, and rely on the nexus of extended family for economic assistance in times of need and military defence in times of conflict. First Nations were able to build beneficial alliances without constraining their autonomy and their way of life. First Nations viewed this approach to alliance-building as a fundamental aspect of their traditional law. Similar to “natural law” in European jurisprudence, First Nations traditional law is a gift of the Creator.

First Nations modelled their societies after ecosystems where all species co-exist in a dynamic equilibrium. They feed one another, and are fed, in ongoing relationships. If something in the ecosystem changes, relationships adjust. In the same way, making alliances created new relatives, and brought new people into the territory, requiring adjustments in relationships with their ecosystem including the buffalo, the moose, the beaver, the eagle and all other creatures. Within this spiritual and legal framework, from the perspective of Treaty First Nations, sharing the land was a profoundly serious procedure that required consideration of all interested parties.

2.4 European Diplomacy

Treaty-making in the Old World was developed to achieve a number of purposes – to achieve military alliance, to promote peace, to develop trade, to provide for safe conduct, and to determine terms of surrender following war, among other reasons. Treaty-making in Europe

can be traced back to the days of the Roman Empire, when Rome used the treaty instrument to form alliances for mutual defence and trade. The promise of safe conduct for its merchants, together with protection from the armies of its treaty partners, enabled an already powerful empire to further expand. After the breakup of the Roman Empire, the Church was able to maintain a certain degree of order throughout Europe by linking powerful families through marriage and by mediating territorial disputes. Treaties for military surrender were common during this period.

By the 1200s, Italian city-states began to negotiate trade treaties with Islamic rulers in North Africa and the Middle East. By 1450, Portuguese explorers established trade treaties with West Africa. Treaties became the accepted means of acquiring trade monopolies in newly explored or “discovered” countries, and of protecting these economic interests against those of rival European nations. Trade treaties were eventually made throughout south and southeast Asia, Africa, and North and South America by Great Britain, France, Spain, Portugal, the Netherlands, and other European mercantile powers.

Throughout the period of European exploration and settlement of the Americas, European powers continued to use treaties as instruments to promote peace, to secure military alliances, and to negotiate peace following periods of conflict. These, together with the trade treaties, formed a consistent tradition of European treaty-making which influenced British officials, and later Canadian officials, at the time of treaty-making with First Nations.

2.5 Early Trade Relations

In western Canada, First Nations relations with Europeans were forged with the expansion of the fur trade. In order to secure successful, long-term commercial relations, institutions and practices emerged to accommodate the sharply different diplomatic, economic, political and social traditions of the two parties. These institutions and practices from the fur trade were carried over to the treaty-making era in Saskatchewan, and incorporated into the treaty relationship. A better understanding of the numbered treaties in Saskatchewan can be achieved by understanding the context of early compacts between First Nations and the early trading companies.

The process of establishing trade relations involved the application of longstanding European practices to newly explored regions. Early trade relations in the west were conducted through a number of chartered trading companies. The Virginia Company and Hudson's Bay Company were entrusted with the earliest British efforts to secure permanent footholds in North America through the establishment of these trade relations. These trading companies were quasi-sovereign, and usually had the power to wage war and to conclude treaties, on their own account and for the benefit of their flag. The ways in which the trading companies and First Nations conducted their affairs set precedents that were followed at subsequent treaty negotiations between the Imperial British Crown and First Nations. The largest and most prominent was the Hudson's Bay Company (HBC), which was granted a monopoly of trade in all the land traversed by rivers running into Hudson Bay. The huge charter territory, first called Rupert's Land, eventually became the prairie provinces and the Northwest Territories. Shortly after the founding of the Hudson's Bay Company in 1670, some First Nations became involved in the fur-trade by travelling to York Factory.¹¹

In establishing trade relations, the Hudson's Bay Company followed the precedent set by the French in New France, by accommodating the customs of First Nations as much as possi-

ble. Although Charles II had granted the HBC the equivalent of freehold tenure (similar to full ownership) to all lands draining into Hudson Bay, the directors of the HBC still considered it prudent to obtain the consent of the First Nations to build trading posts and to conduct trade in their territories. In 1680, the directors of the HBC wrote to John Nixon, their governor in James Bay, and informed him:

...There is another thing, if it may be done, that we judge would be much for the interest & safety of the Company, That is, In the several places where you are or shall settle, you contrive to make compact with. The Captns. or Chiefs of the respective Rivers & places, whereby it might be understood by them that you had purchased both the lands and rivers of them and that they had transferred the absolute propriety to you, or at least only freedome of trade, and that you should cause them to do some act wch. By the Religion or Custome of their Country should be thought most sacred to them for the confirmation of such Agreements.¹²

Despite the grant of Rupert's Land, the HBC thought that it would be prudent to obtain the approval of First Nations to occupy portions of First Nations traditional territories.¹³ The trading companies knew that to establish good relations, they would require a level of understanding and a demonstration of respect for the traditions and practices of First Nations.

HBC agents gradually built a network of alliances with First Nations throughout Rupert's Land. First Nations' protocols were borrowed, adapted, and to some extent standardized. Alliances were created and renewed annually. The process involved ceremonies such as smoking the sacred pipe, the exchange of gifts that symbolized good will, and arranged marriages.¹⁴ An example of the protocol is the sacred pipe ceremony which was conducted in the greatest solemnity before trading actually occurred. The conducting of the ceremony signified that good relations were established, and that the First Nations were treated with respect. In some instances some First Nations might leave the pipe with their new trading partner. There is some indication that if proper protocol and conduct was not displayed by a trading company, then the First Nations would indicate their displeasure by taking the pipe with them thereby signifying an end to the trade agreement.¹⁵

The gift exchange that was part of this process also had ceremonial significance. Every member of the First Nations trading party would contribute to the collective giveaway ("*Puc ci tin ash a win*" in Cree).¹⁶ *Puc ci tin assowin* is a ceremony of mutual benefit in that the First Nations' expect to receive good will and spiritual blessing in return.

It was also customary for trading companies to present medicines to the First Nations' medicine men. This conduct displayed the willingness of the Company to share its medicines in order to help First Nations deal with new sicknesses they were unaccustomed to combating.¹⁷

HBC representatives wore uniforms to signify their authority, and distributed uniforms to First Nations chiefs in order to acknowledge their leadership positions and to win their loyalty.¹⁸ The research commissioned by the Office of the Treaty Commissioner summarized the significance of these practices:

Significantly, all of the major components of this pre-trade gift-exchange ceremony, the [pipe ceremony], the presentation of outfits of clothing to Aboriginal leaders, and the distribution of food, were carried over into the treaty-making process in the late

nineteenth century. Promises to give medicine (in time of need) were incorporated into treaties.¹⁹

From the earliest days of the fur trade, credit was extended to First Nations by the HBC. Trappers would be outfitted with a supply of goods as credit against their next year's return. The HBC sponsorship of First Nations' trappers was family-like in practice, with credit freely extended in times of need, analogous to sharing amongst family in First Nations' communities. If poor hunts, outbreaks of disease, or other events resulted in a shortfall, lines of credit were normally extended over two or more years, or written off altogether. The credit system provided a safety net for First Nations who became increasingly reliant upon European goods.²⁰ While the Company aimed to make a profit, it was acutely aware that its most important asset was the loyalty and trust of First Nations.

In the early 1800s, as the depletion of wildlife and rapid spread of contagious diseases decimated First Nations, the HBC took further measures to protect its interest by administering vaccinations and giving relief and medicine to the elderly and destitute. Investing in First Nations' means of livelihood, and providing sustenance in hard times, was in keeping with First Nations' principles of good relations.²¹ The research commissioned for the Exploratory Treaty Table summarizes the impact of this custom:

Thus, before 1870 the economic safety net remained in place for the HBC's Aboriginal customers in the form of a debt system (to address the short-term problems which its able-bodied clients faced from time to time earning their livelihood) and in the form of sick and destitute relief (for the chronically infirm). As well, whenever the local hunts failed, the company supplied food (rations).²²

Maintaining good relations and good will was the key to success for the trading companies. However, external pressures and forces required a new kind of relationship. Although the HBC had been content to limit its charter rights to freedom of trade for two centuries, land speculators began to take an interest in Rupert's Land by the 1860s. This placed the HBC in an awkward position. Any change in its policy towards First Nations could have destabilized the frontier at a time when Canada's western settlements were still small, and vulnerable not only to resistance by First Nations but to American encroachments as well.

2.6 Treaties Prior to Canadian Confederation

In 1763, when New France fell to British forces, Britain was confronted with the twin challenges of winning the trust and friendship of France's First Nations allies, and of dealing with the restiveness of its own indigenous allies over the incursion of American colonists on their lands. In the summer of that year, a widespread war led by Odawa Chief Pontiac engulfed the American interior.²³ This led the British to adopt a comprehensive and enforceable policy, and to issue a royal proclamation declaring the terms of this policy. Under British legal principles, prerogative instruments such as a royal proclamation have the force of statutes of a legislature or parliament in regions that do not have representative legislative bodies, as was the case in British North America in 1763. To create greater certainty and avoid conflict, that proclamation set out terms and a defined process in its bid for obtaining access and title to First Nations' lands:

...And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchase by Us, are reserved to them, or any of them, as their Hunting Grounds.²⁴

The proclamation, in the name of King George III, went on to forbid private individuals to purchase any lands from the Indians, and set out a procedure requiring the voluntary cession of Indian lands to the Crown in a public assembly of the Indians concerned.²⁵ The British Crown thus established its precedent for mutual agreement or treaty, and a binding procedure for the acquisition of First Nations' lands according to British law.

The first treaty between the First Nations and the Crown in what is now western Canada was the Selkirk Treaty of 1817. The intention of the Selkirk Treaty was to secure a tract of land adjacent to the Red and Assiniboine Rivers for Scottish settlers in exchange for an annual present of tobacco as *quit rent* to chiefs and warriors of the Saulteaux and Cree Nations.²⁶ Medals and the HBC company flag, together with rum and other goods, were also exchanged as part of the relationship. In the late 1860s, when the proposed sale of Rupert's Land to Canada became widely known, the status of title to the lands in the Red River Settlement as established in the Selkirk treaty became controversial. This uncertainty eventually led to the negotiation of new arrangements reflected in numbered Treaties 1 and 2 in 1871.²⁷

Some precedents for the numbered treaties of the prairies can be found in the Robinson Treaties of 1850 in what is now Ontario. By the late 1840s the Province of Canada had issued several leases to mining companies in Ojibway territory without obtaining the First Nation's consent. In 1846, Chief Shingwak addressed the Governor General in Montreal, seeking money for Ojibway lands and a share of the benefits, since the First Nations had previously leased lands to mining companies on their own:²⁸

Can you lay claim to our land? If so, by what right? Have you conquered it from us? You have not, for when you first came among us your children were few and weak, and the war cry of the Ojibway struck terror to the heart of the pale face...Have you purchased it from us, or have we surrendered it to you? If so, when? And how? And where are the treaties?²⁹

In 1849 an armed party of Indians and Metis seized the Quebec Mining Company property at Mica Bay.³⁰ In order to quell the conflict and to obtain access to mining, to provide for settlement north of the Great Lakes, and to assert British jurisdiction in the face of American incursions in the area, the Crown sent Commissioner William Robinson to make treaty with the First Nations of Lakes Huron and Superior. The Robinson Superior and Robinson Huron Treaties of 1850 provided the Ojibway with a share of revenues from the exploitation of resources in their territories, and annuities, or cash payments, were to increase as revenues increased. Reservations of land for the Ojibway were also secured, as were traditional and commercial hunting, fishing and harvesting in their traditional territories.³¹ The research commissioned for the Exploratory Treaty Table summarized Commissioner Robinson's approach as follows:

In short, Robinson...claimed it was a win-win proposition (to use a modern expression) for Native people. They would be able to continue their traditional subsistence and commercial fishing, hunting, trapping, and other economic pursuits, but with the benefit of expanded commercial opportunities for the fruits of their labor and more competitive prices for the Euroamerican goods they wanted.³²

The precedents of annuities, hunting, fishing and harvesting on traditional lands, and reserve lands were to find their way into the numbered treaties. There were also differences of interpretation about the treaty provisions concerning land. The written text of the Robinson treaties describes the agreement as a total surrender of territory, terminology that First Nations stated had not been agreed to in the negotiations. From the Ojibway perspective, the treaties involved only a limited use of their land for the purposes of exploiting minerals.³³ Land title disputes continued long after the conclusion of the Robinson treaties and the numbered treaties.

2.7 Post-Confederation Treaties

After Confederation in 1867, Canada focused on settling the Prairies, and treaty commissioners were instructed to “establish friendly relations” with the Indians, through treaty or other means to enable “...the flow of population into the fertile lands that lie between Manitoba and the Rocky Mountains.”³⁴ In devising a format for new treaties in Rupert’s Land, Canada was informed by two streams of diplomatic precedent. One was the practice established between the First Nations and the HBC. Many of these diplomatic protocols were carried over into the negotiation of Canada’s post-Confederation treaties, such as the use of the sacred pipe, formal exchanges of gifts and the distribution of uniforms, medals, and flags. Canada was also mindful of another stream of precedent: Crown treaties concluded with First Nations east and north of the Great Lakes prior to Confederation, to which we have just referred.

In 1869-1870, the Dominion acquired Rupert’s Land from the HBC without the knowledge of the First Nations. First Nations were angered by reports that the HBC had “sold” what they considered to be their First Nations’ lands to the Dominion, and conflict followed. Surveyors were stopped and settlers turned back. This action frustrated settlement, as well as the second objective of the Crown, which was peace and security in the west.

As historian John Tobias points out, this aspect of the history is often ignored:

...the treaty process only started after Yellow Quill’s Band of Saulteaux turned back settlers who tried to go west of Portage la Prairie, and after other Saulteaux leaders insisted upon enforcement of the Selkirk Treaty or, more often, insisted upon making a new treaty. Also ignored is that fact the Ojibway of the North-west Angle [Treaty 3] demanded rents, and created fear of violence against prospective settlers who crossed their land or made use of their territory, if Ojibwa rights to their lands were not recognized. This pressure and fear of resulting violence is what motivated the government to begin the treaty-making process.³⁵

Canada was also facing external pressures. The government was conscious of the expansionist pressures in the United States to extend the American border northward into Canada. The Canadian government also feared that an alliance of First Nations on both sides of the international border in the prairie region would build up against the Crown. Both the Canadian

government and First Nations were aware of the Indian Wars in the United States, and the heavy human and financial costs they exacted. During those Indian Wars, the budget of the U.S. Department of War exceeded that of the entire Dominion of Canada.³⁶

First Nations were beginning to suffer severe hardship from the impact of settlement and commercial harvesting of buffalo and other wildlife, and were also growing anxious over the security of their way of life and their means of livelihood. First Nations objectives were related to their land, and their livelihood, and to dealing with deteriorating economic and health conditions in their communities brought about by declining wildlife populations and fur prices, diseases and contact with growing numbers of settlers. They also wanted peace and recognized the importance of securing additional means of livelihood while protecting their way of life. They were hopeful that their objectives would be addressed through a treaty relationship.

As early as 1857, Chief Peguis had been concerned about the impact of settlement before the end of HBC rule. In a letter to the Aborigines Protection Society in England, in that year, he asked that:

before whites will be again permitted to take possession of our lands, we wish that a fair and mutually advantageous treaty be entered into with my tribe for their lands.³⁷

The objective of mutual advantage was repeated by Chief Mawedopenais during the negotiation of Treaty 3 in 1873:

All this is our property where you have come....This is what we think, that the Great Spirit has planted us on this ground where we are, as you were where you came from. ...Our hands are poor but our heads are rich, and it is riches that we ask so that we may be able to support our families as long as the sun rises and the water runs.

...*The sound of the rustling of the gold is under my feet where I stand*; we have a rich country; it is the Great Spirit who gave us this; where we stand upon is the Indians' property, and belongs to them.

It is your charitableness that you spoke of yesterday – her Majesty's charitableness that was given you. It is our chiefs, our young men, our children and great grand children, and those that are to be born, that I represent here, and it is for them that I ask for terms. The white man has robbed us of our riches, and we don't wish to give them up again without getting something in their place.³⁸

Commissioner Alexander Morris also urged the Chiefs and Headmen to look to the future. He stated, "I only ask you to think of yourselves, and your families, and for your children and children's children."³⁹

The commissioned research summarizes the Crown's objectives in the treaty-making process. Each of the numbered treaties began by stressing:

...the desire of Her Majesty to open up for settlement, immigration, and such other purposes as to Her Majesty may seem meet, a tract of country bounded and described as hereinafter mentioned; and to obtain the consent thereof of her Indian subjects inhabiting the said tract; and to make a treaty and arrange with them so that there may be peace and good-will between them and Her Majesty, and between them and Her Majesty's other subjects; and there her Indian people may know and be assured of what

allowance they are to count upon and receive from Her Majesty's bounty and benevolence.⁴⁰

In effect, as this language indicates, the Crown's objectives for the treaty-making process were opening areas of settlement in exchange for the Crown's bounty and benevolence, and thereby ensuring peace and good will.⁴¹

Treaties 1, 2, and 3 were concluded in 1871-1873 with the Cree and Ojibway of Manitoba and northwestern Ontario. Treaty 1 was concluded at the HBC post Lower Fort Garry, and Treaty 2 at Manitoba House post in August of 1871, while Treaty 3 was negotiated at the Northwest Angle near Lake of the Woods in 1873. The written terms of Treaty 1 require First Nations to maintain peace amongst each other and with settlers and to avoid interference with property of the Crown and the Crown's subjects.⁴² The text of Treaty 2 and subsequent treaties added that First Nations were to obey the law, maintain peace and order between themselves and other Indian tribes, and assist in bringing to justice any Indian offending the treaty or the law. The Crown proposed reserving land for the exclusive use of First Nations, and this provision is reflected in all numbered treaties. First Nations were also free to choose whether to continue hunting, or to take up farming on a reserve. Lieutenant-Governor Archibald, who negotiated Treaties 1 and 2 on behalf of the Crown, emphasized during the meetings that First Nations "would not be compelled to settle on reserves and that they would be able to continue their traditional way of life and hunt as they always had."⁴³ Annual distributions of money, ammunition, twine and other items were also promised, much like the annual provisions that HBC formerly provided to some of the First Nations. Many of these same features appear in the written text of Treaties 4, 5, and 6.

2.7.1 The Prairie Treaties of Saskatchewan – Treaties 4, 5 and 6

Prairie Treaties 4, 5, and 6 were negotiated in 1874, 1875, and 1876 respectively. The situation for First Nations prior to treaty negotiations was similar to the experience of First Nations in Treaties 1, 2, and 3. In Treaty areas 4, 5, and 6, deteriorating buffalo herds, declining fur prices, and new diseases deepened the hardships of First Nations. Canada was also anxious about the Cree and Blackfoot alliance which had been made in 1871 after many generations of conflict. From the Crown's perspective, accelerating settlement along the Saskatchewan River and its tributaries was regarded as necessary to demonstrate its sovereignty, and this required obtaining access to the remaining agricultural lands on the prairies. Treaties 4, 5, and 6 were concluded with these objectives in mind.⁴⁴

Negotiations for Treaty 4, also known as the Qu'Appelle Treaty after the place where it was concluded, involved the Cree and Saulteaux Nations. *Kakiishway* (Loud Voice) spoke for the Cree, while *Mee-may* (Gabriel Cote) and *Otahaoman* (The Gambler) led the Saulteaux. Principal negotiators for the Crown were Alexander Morris, a lawyer and Lieutenant-Governor of Manitoba and the North-West Territories, and David Laird, Minister of the Interior and Superintendent General of Indian Affairs, in the Alexander Mackenzie federal government.⁴⁵

For the first four and one-half days of preliminary discussions, the Saulteaux negotiators refused to engage in substantive negotiations because they were upset that land, which they regarded as their territory, was "sold" to the Dominion of Canada without their consent. Through the transfer of Rupert's Land in 1870, Canada had purchased the HBC's claims and

interests for 300,000 pounds.⁴⁶ The Gambler articulated this concern:

I have understood plainly before what he (the Hudson Bay Company) told me about the Queen. This country that he (H.B.Co.) bought from the Indians let him complete that. It is that which is in the way.

The company have stolen our land. I heard that at first. I hear it is true. The Queen's messengers never came here...

The Company have no right to this earth...The Indians were not told of the reserves at all. I hear now, it was the Queen gave the land (to the HBC). The Indians thought it was they who gave it to the Company...The Indians did not know when the land was given [to the company].⁴⁷

The oral history of Treaty 4 First Nations in Saskatchewan is consistent on two points regarding the status of land ownership: the land was to be shared; and the newcomers had only a limited right to use that shared land. Elder Danny Musqua, a descendent of one of the Saulteaux leaders, spoke to the Exploratory Treaty Table on this issue:

Through the whole process there was never an understanding that they were going to surrender totally and give up totally the resources that were on those lands...Never at anytime did we understand...that we were giving up anything more than the depth of a plow.⁴⁸

This is in sharp contrast to the written text of Treaty 4 which uses the words:

The Cree and Saulteaux tribes of Indians, and all other the Indians inhabiting the district hereinafter described and defined, do hereby cede, release, surrender and yield up to the Government of the Dominion of Canada for Her Majesty the Queen and her successors forever, all their rights, titles and privileges whatsoever to the lands included with the following limits...⁴⁹

The Crown was interested in acquiring unencumbered land to enable it to open up the west for settlement and, in return, was willing to provide certain benefits to First Nations.

In the oral history of Treaty First Nations, it was clearly understood that if the First Nations agreed to share the land, the Queen would see that their needs were met, and the Queen's power and authority would protect the First Nations from encroachment by settlement. A caring relationship was emphasized by which the Indian Nations' way of life would be safeguarded and the parties would mutually benefit.⁵⁰

Treaty 4 First Nations were interested in acquiring the benefits of European technology – “the cunning of the white man” as Morris termed it – in order to adapt to drastically changing circumstances. A poignant account was given by Saulteaux Elder Danny Musqua in May 1997. His grandfather had been at Treaty 4 as a young boy, and observed that an elderly Saulteaux inquired about the “learned man” who was taking notes for the Treaty Commissioners. On being told that this was a learned man, the Saulteaux exclaimed, “that is what I want my children to have. That kind of education is what my children must have.”⁵¹ In

addition to farming provisions, Treaty 4 also provided for education and support for continued hunting and fishing. As in earlier treaties, provisions for annuities, flags, suits and medals were included in the treaty.

Treaty 5, also known as the Lake Winnipeg Treaty, was concluded in 1875 between the Swampy Cree and others and the Crown as represented by Commissioner Morris. It covers part of the Manitoba Interlake, the lower Saskatchewan River, and the Canadian Shield country around Lake Winnipeg. Negotiations were held at Berens River, Norway House and Grand Rapids.

For the Crown, the coming of the steam boat to the Lake Winnipeg waterway would require a treaty to deal with navigation and to make arrangements so that “settlers and traders might have undisturbed access to its waters, shores, islands, inlets and tributary streams.”⁵² First Nations knew that steamboats would disrupt their lives. In 1874, Chief Rundle and several other leaders wrote to Alexander Morris noting the increased population density on their land and the threat to its carrying capacity. They also inquired into the possibility of relocating to good farming country, and noted that nearly two-hundred of their people would be thrown out of employment when tripping to York Factory ceased.⁵³ Livelihood was a critical concern for the First Nations in this territory.

The terms of Treaty 5 were similar to those of Treaties 3 and 4, although fewer benefits accrued to the Treaty 5 First Nations. Instead of one square mile of land (640 acres) per family of five, Treaty 5 received only 160 acres per family of five.⁵⁴ The reasons for this are unknown. There was concern among the First Nations about the location and size of reservations, but the matter was left to be dealt with in the future. The Cree were assured, however, that they would be able to continue to hunt and trap as before on their traditional territories.⁵⁵ Annuities, medals and suits of clothing were presented, and promises of tools and implements for agriculture, and promises of education were made. Other provisions included ammunition, twine and nets for fishing and the prohibition of alcohol.

Treaty 6 was negotiated at Fort Carlton and Fort Pitt in 1876 between the Plains Cree, Willow Cree and other bands, and the Crown as represented by Alexander Morris. As early as 1871, some Cree Chiefs of the Plains had requested consultations with government representatives. HBC Chief Factor W.J. Christie assisted *Weekaskookeensayyin* (Sweet Grass) in the writing of a letter to Lieutenant-Governor Archibald:

Great Father, I shake hands with you and bid you welcome. We heard our lands were sold and we did not like it; we don't want to sell our lands; it is our property, and no one has a right to sell them...

Our country is getting ruined of fur-bearing animals, hitherto our sole support, and now we are poor and want help - we want you to pity us. We want cattle, tools, agricultural implements and assistance in everything when we come to settle - our country is no longer able to support us.

Make provision for us against years of starvation. We have had great starvation the past winter, and the small-pox took away many of our people, the old, young and children. We want you to stop the Americans from coming to trade on our lands, and giving fire-water, ammunition and arms to our enemies the Blackfeet.

We made a peace this winter with the Blackfeet. Our young men are foolish, it may not last long.

We invite you to come and see us and to speak with us. If you can't come yourself,

send some one in your place.

We send these words by our Master, Mr. Christie, in whom we have every confidence. That is all.⁵⁶

At this time the Cree on the Plains were also agitated by the presence of surveyors of the Pacific Railway and the construction of telegraph lines through their territories. Lieutenant Governor Morris responded to the Cree Chiefs by giving them assurances that Commissioners would be sent to negotiate a treaty with them.⁵⁷

In August, 1876, Alexander Morris was sent to negotiate with the Cree at Fort Carlton. Morris' report in December, 1876 recounted the elaborate ceremonies that preceded the treaty negotiations. The Union Jack was hoisted, and the Crees assembled with the accompaniment of beating drums, singing, dancing and the discharge of fire-arms. The Cree Chiefs advanced in a semicircle, with men on horseback galloping in circles, shouting, singing and discharging fire-arms. The pipe ceremony was conducted, the pipe was extended to the Treaty Commissioner who stroked the pipe. After the pipe ceremony was concluded, the Cree were "satisfied that in accordance with their custom [the Treaty Commissioner] had accepted the friendship of the Cree nation."⁵⁸

By 1876 the buffalo were in serious decline and the Cree were recovering from a small-pox epidemic of a few years earlier. Anger over the sale of Rupert's Land remained an issue in the discussions around Treaty 6, as it had been at Treaty 4. First Nations also stressed the necessity of education and agriculture to establish new means of ensuring an adequate livelihood for future generations. In response to pressure at Fort Carlton, Morris made a number of concessions. He offered to increase the number of cattle and farm implements the government would provide, and to make \$1,000 available every spring for three years to assist in buying provisions while planting the ground.⁵⁹ First Nations looked to the Government of Canada to outfit them for farming, just as they had looked to the HBC to outfit them for trapping.

Alexander Morris' report stressed the Queen's offer of protection and benevolence, and made a point of including promises of emergency relief in the event of famine and pestilence, and a medicine chest at the house of each Indian Agent. Morris promised that the Crown would see to Indians' welfare even better than had the HBC, that their existing way of life would not be disturbed, and they would be provided the means of adopting agriculture if they wished. As the commissioned research concluded, the Cree and Sauleaux were seeking a partnership with Canada to obtain protection that was equivalent to what they had become accustomed to receive in their mercantile relationship with HBC:

Thus, from the First Nations perspective, Treaty Six would have many symbolic parallels to the older unwritten accords they had forged with the company. Treaty coats were the equivalent of captain's coats; annuities and other recurring allowances recalled the annual gift of the fur trade; and government commitments to provide relief, medical aid, and education served the same ends as the HBC's practice of providing liberal credit to the able-bodied and aid to the elderly, sick and destitute.⁶⁰

2.7.2 The Northern Treaties of Saskatchewan—Treaties 8 and 10

Treaty 8 territory extends across the Athabasca and Peace River districts into northern British Columbia. In the late 1880s the Cree and Dene within this area sought treaty.⁶¹ First

Nations in the region were experiencing falling fur prices, starvation, and miners encroaching on their lands. Three consecutive years of severe winter conditions contributed to the hardship First Nations had encountered prior to treaty negotiations. Father G. Breynat wrote from Fond du Lac about the plight of these people in the winter of 1898-99:

Dogs died of hunger, and people had no more transportation. Some of the people walked to the village for three days without food...some arrived with hand and nose frozen...Influenza followed famine...⁶²

However, until gold was discovered in the Klondike in 1897, the Crown was slow to respond to the plight of First Nations. With the discovery of gold in Alaska, miners and prospectors flooded the various routes through British Columbia and Alberta, searching for gold along the way. In the absence of a treaty relationship, hostile relations developed between the First Nations and the miners. An excerpt from the 1899 Annual Report of the North-West Mounted Police (NWMP) reflects on the environment of the times:

Mr. Fox (the post manager) informs me that the Indians here at first refused to allow the whitemen to come through their country without paying toll...They threatened to burn the feed and kill the horses; in fact several times fires were started, but the head men were persuaded by Mr. Fox to send out and stop them. There is not doubt that the influx of whites will materially increase the difficulties of hunting by the Indians, and these people, who, even before the rush, were often starving from their inability to procure game, will in future be in much worse condition...They are very likely to take what they consider a just revenge on the whitemen who have come, contrary to their wishes, and scattered themselves over their country. When told that if they started fighting as they threatened, it could only end in their extermination, the reply was, we may as well die by the white men's bullets as of starvation.⁶³

The NWMP, the trading companies, and the churches all suggested treaties should be negotiated to address these problems.

Treaty 8 was the first major treaty to be negotiated following the Rebellion of 1885. In 1899, the commissioners travelled to meet the Cree and Dene people of northern Saskatchewan, Alberta and British Columbia and of the Northwest Territories south of the Hay River and Great Slave Lake. Treaty Commissioner J.A.J. McKenna initially questioned the appropriateness of setting aside reserves in the north, recognizing that the Indians did not form large tribal organizations but rather lived dispersed on the land, and would probably resist centralization.⁶⁴ Because the territory was perceived to be of little value to the Crown, Commissioner McKenna assumed treaty would not result in any significant change to the First Nations' way of life.

However, First Nations had considerable apprehension that their way of life would be threatened and their livelihood would be curtailed. First Nations in the north wanted to hunt, fish, trap and gather as they had for hundreds of years. As Martin Josey, a Denesuline Elder from Fond du Lac stated in November 1997:

...we want to ensure that our abilities to carry on with our way of life over our lands will always be there, and always be protected for the future generations. But you did not buy that from us, you have to remember that....Our people were assured that was not to be, that our way of life would always continue, as well our ability to hunt, harvest the resources off our land, would be protected for all further generations. That is what I remember the Elders speaking about when I was young.⁶⁵

This reluctance was reported by Father Lacombe 100 years ago, to the Secretary of Indian Affairs in 1898:

...the Northern native population is not any too well disposed to view favorably any proposition involving the cession of their rights to their country.⁶⁶

Being assured that they would be retaining their way of life was the key to persuading the First Nations to accept Treaty 8.

In response to their concerns, the Crown solemnly assured the First Nations that they be as free to hunt and fish after the treaty as they would be if they never entered into treaty, that the treaty would not lead to any forced interference with their mode of life, that it did not open the way to the imposition of any tax, and that there was no fear of enforced military service.⁶⁷

Treaty 8 extends into the northwest part of present day Saskatchewan in the area surrounding Lake Athabasca. Treaty 8 was drafted based on the provisions of the prairie treaties, some of which were completely unsuitable in the north, such as those relating to livestock, farming equipment and the amount of land set aside for reserves. Other provisions included the right to pursue hunting, trapping, and fishing throughout their territories, to reserve land collectively or in severalty, to annuities, to famine relief, a silver medal, a suitable flag, a suit of clothing, and the salaries of teachers.

Treaty 10 was the last of the numbered treaties in Saskatchewan. Interest on the part of the First Nations in a treaty in that region of northeastern Saskatchewan was expressed as early as 1883.⁶⁸ First Nations in that region were interested in a treaty relationship as established by other First Nations as a way of accessing support from the Crown. First Nations beyond treaty territory were treated differently from First Nations with treaty. Those without treaty relied solely upon the generosity of the government to provide aid in the time of need.⁶⁹

In 1905, the issue of treaty was reassessed by the Crown because the creation of the Province of Saskatchewan extended far beyond existing treaty limits. The Crown entered into negotiations on Treaty 10:

In view of the fact that the boundaries of the newly organized province of Saskatchewan extend far beyond the present treaty limits, I would suggest that measures be taken to bring the remainder of the Indians within the said boundaries into treaty...⁷⁰

The text of Treaty 8 was later presented to the First Nations in the northeast region of Saskatchewan in 1906 as a draft of Treaty 10. Discussions were held in the late summer at Ile

a la Crosse, Portage la Loche, and Buffalo Narrows. During Treaty 10 negotiations, Treaty Commissioner J.A.J. McKenna told the First Nations that the Crown's objective was to do for them, what had been done for other Treaty Nations when trade and settlement began to interfere with First Nations' way of life.⁷¹

First Nations held concerns about their way of life and livelihood similar to those expressed during the negotiations of Treaty 8. They expressed concern about the restrictive and confining nature of the reserve system, and did not want reserve creation to impede their traditional way of life. McKenna assured First Nations that "the same means of earning a livelihood would continue after the treaty was made as existed before it,"⁷² and the Crown would assist them in times of real distress, and would help support the elderly and indigent; "I guaranteed that the treaty would not lead to any forced interference with their mode of life."⁷³ Verbal assurances were given by Commissioner McKenna that education and medical assistance would be provided to the First Nations.⁷⁴

Protecting the way of life and securing livelihood was the focus and primary concern for First Nations of Treaties 8 and 10. Both treaties contained a formula for setting aside reserves, although this was left as an option for First Nations to exercise in the future, and no surveys were immediately undertaken.

2.8 Post Treaty-Making Period

Since the conclusion of the numbered treaties, First Nations experienced a series of problems with the implementation of what they understood they had agreed to at treaty-making. The post-treaty era is complex and multi-faceted. Problems with implementation arose for a number of reasons and treaty implementation remains a complex issue today. Our purpose in this section is not to describe and analyze all problems arising in the post-treaty era, but rather to acknowledge a number of significant factors which have influenced the development of First Nations' communities and First Nations' relations with the Government of Canada.

In the 1880s, First Nations on reserves experienced severe poverty and malnutrition because of the depletion of animals and the erosion of their way of life, in addition to ration cutbacks by Indian Affairs, especially following the 1885 Rebellion. There were numerous petitions by First Nations demanding adequate food and medicines, and a number of confrontations, such as the Yellow Calf incident at Sakimay First Nation in Treaty 4 in 1884.⁷⁵ In February of 1884, amidst extreme famine, some two dozen armed men on the Sakimay reserve demanded bacon and flour from Indian Agent Hilton Keith. When Agent Keith refused to provide food, the party stormed the warehouse, took provisions, and then barricaded themselves in the building. Louis O'Soup, a Saulteaux spokesman, met with Assistant Commissioner Hayter Reed and Mounted Police Inspector R.B. Deane a few days later, and said:

If he were allowed to starve he would die, and if he were doomed to die he might as well die one way as another...

Their women and children were starving and that the men...would not allow themselves to be arrested – that they would fight to the death – that they were well-armed and might as well die than be starved by the government.⁷⁶

The First Nations considered the stored provisions to be theirs as a result of the treaty promises, to be used by them in times of need.

Similar incidents took place in Treaty 6. First Nations leaders sought the famine relief and schools as promised in the treaty. In 1884, leaders from Fort a la Corne and the Battleford and Carlton regions met with Indian Agent Ansdell Macrae. Macrae reported to Indian Commissioner Edgar Dewdney on his meeting. The Chiefs told Macrae that wild oxen were given to them, rather than tame cattle, and these should be replaced, as should the cows and horses. The wagons broke down because they were poorly made. They received none of the clothing promised, nor any of the schools, nor any of the agricultural machinery, nor the medicine chests. The charitable aid promised was insufficient. The chiefs said that these grievances had been made again and again without effect, and they were glad that the young men had not resorted to violence.⁷⁷

In Treaty 10, there was a general fear that the treaty would curtail hunting and fishing activities and that the rivers and lakes would be monopolized or depleted by external commercial fishing. Contrary to the guarantee given by Commissioner McKenna, “that the treaty would not lead to any forced interference with their mode of life,” the Dene experienced constraints on their hunting, fishing, and trapping activities because of provincial government regulations.

In the recent past, a number of studies have focused on the effects government policies and legislation have had on First Nations’ cultures, governments and way of life.⁷⁸ For example, the Royal Commission on Aboriginal Peoples concluded that the present and historic relationship between Treaty First Nations and the Government of Canada is severely strained⁷⁹ due in large part to the fact that the Government of Canada did not enact laws pertaining to treaty implementation after it concluded treaties with First Nations. According to the Royal Commission:

In the absence of effective laws to implement treaties, the federal Indian administration fell back on the *Indian Act*. As time went on basic treaty provisions such as annuities were provided for in the *Indian Act* to enable the federal government to deliver them. Although it does not recognize, affirm or otherwise acknowledge treaties, the *Indian Act* continues to be the only federal statute administering to Indians generally, including those with historical treaty agreements.⁸⁰

Before Confederation in 1867, the colonial government developed policies that guided its relations with First Nations people in Upper and Lower Canada. After the conclusion of the numbered treaties, the federal government relied on the existing Indian Department with all its pre-existing policies to deal with First Nations. While Indian policies had developed in eastern Canada before the numbered treaties were concluded, these policies later evolved and extended west to First Nations in the Treaty 4, 5, 6, 8 and 10 territories.

The *Indian Act* played a dominant role in the lives of First Nations people and has had an impact upon the present relationship between First Nations and the Government of Canada. Indian policy was designed with the objectives of protection, civilization and assimilation of First Nations people. Included in the *Indian Act* and subsequent amendments were considerable powers allocated to the Superintendent General of Indian Affairs. The Department of Indian Affairs directed operations in the administration of local affairs – local Indian Agents

exercised significant powers in the internal affairs of First Nations' communities.⁸¹ Indian policies evolved since the creation of a colonial Indian Department in 1755 and, after confederation in 1867, policies specifically dealing with protection, civilization and assimilation were consolidated under the *Indian Act* in 1876.⁸² After 1876, the *Indian Act* was applied throughout the western numbered treaty regions.

Assimilation policies and procedures were designed to replace traditional First Nations' governments and way of life with western lifestyles, governments and economies.⁸³ In advancing the process of assimilation, the government embarked upon a number of initiatives to encourage new economic, political and cultural transitions. In 1876 and 1880, a new elective system of government was introduced in the west to replace traditional forms of First Nation's government.⁸⁴ The Band Council system of government was introduced and rules and regulations on membership, elections, leadership and Band Council responsibilities were intended to replace traditional political activity.⁸⁵ After 1883, federally funded industrial and residential schools were introduced in what is now Saskatchewan.⁸⁶ These schools, which were created to educate Treaty First Nations children, isolated them from their families, communities and cultures. Through a period of tutelage, residential and industrial schools were intended to equip youth with knowledge and skills that were premised upon European values and behaviours.⁸⁷

Assimilation policies towards First Nations continued throughout the first half of the 20th century. One widely held notion that formed the basis for Indian policy in western Canada was that of the "vanishing race."⁸⁸ Duncan Campbell Scott, Superintendent General of Indian Affairs, echoed this sentiment to Parliament in 1920:

Our object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian Question.⁸⁹

It was believed that the First Nations' way of life would not endure in a new society and the approach was to ensure that First Nations assimilate into non-Aboriginal society.

Between 1895 and 1914, new restrictions included in Section 114 of the *Indian Act* prohibited First Nations' spiritual expression by banning or regulating ceremonies, dance, singing, and dressing in ceremonial regalia.⁹⁰ Following the 1885 North West Rebellion, added restrictions were put in place when the pass system was introduced. First Nations people were required to obtain consent from an Indian Agent to leave their reserves, although restrictions varied from community to community. The pass system restricted the mobility of First Nations and obstructed their ability to pass freely across the border to the United States, participate in ceremonies outside the reserve, and congregate with First Nations from other Bands.⁹¹

After the introduction of the pass system and new restrictions included in Section 114 of the *Indian Act*, a number of Chiefs protested the banning of their ceremonies as an abrogation of treaty promises. In 1897, Chief Thunderchild and a number of his Band members were convicted on charges of holding a giveaway ceremony and were sentenced to two months imprisonment.⁹² Chief Thunderchild's Treaty Six medal was also confiscated, despite his loyalty to the government during the 1885 Rebellion. In 1914, Chief Thunderchild submitted a letter that challenged the local Indian Agent's refusal to allow his Band members to travel to a sundance being held on another reserve:

Endnotes

¹ Tough, Frank, J.R. Miller, and Arthur J. Ray, "Bounty and Benevolence: A Documentary History of Saskatchewan Treaties", unpublished report for the Office of the Treaty Commissioner, Saskatoon, Saskatchewan, March 15, 1998, p. 400.

² Elder Jacob Bill, Pelican Lake First Nation, at an Elders meeting with Harold Cardinal, Walter Hildebrandt, FSIN, and the Office of the Treaty Commissioner, Saskatoon, Saskatchewan, January 10-11, 1998. Translated from Cree to English.

³ Elder Norman Sunchild, Thunderchild First Nation, Treaty Elders' Forum, Jackfish Lake Lodge, November 12-14, 1997. Translated from Cree to English.

⁴ Cardinal, Harold and Walter Hildebrandt, "My Dream: That We Will Be One Day Clearly Recognized as First Nations", draft report for the Office of the Treaty Commissioner, Saskatoon, Saskatchewan, March 1, 1998, p.16.

⁵ Cardinal and Hildebrandt, pp.16-19.

⁶ Cardinal and Hildebrandt, p.6. For a history of First Nations in Canada generally, see Olive Patricia Dickason, *Canada First Nations: A History of Founding Peoples from Earliest Times*. Toronto: McClelland and Stewart, 1992, Chapter 4.

⁷ Elder Jimmy Myo, Moosomin First Nation, Treaty Elders' Forum, Nekaneet Recreation Center, Saskatchewan, May 22-24, 1997, explained the nature of the consequence as the Cree term *pastahowin*: "...we have laws as Indian people and those laws are not man-made, they were given to us by God. In my law, if you [breach a sacred undertaking] even if no other human being is aware of it, you will always carry that for the rest of your life. ... The amount we do not pay for here on earth, when we die we will pay for it."

⁸ Elder Alma Kytwayhat, Makwa Sahgaiehcan First Nation, interviewed by FSIN on December 21, 1997, Saskatoon, Saskatchewan. Translated from Cree to English.

⁹ Elder Simon Kytwayhat, Makwa Sahgaiehcan First Nation, interviewed by FSIN on December 21, 1997, Saskatoon, Saskatchewan. Translated from Cree to English.

¹⁰ Barsh, Russel L., "The Nature and Spirit of North American Political Systems", *American Indian Quarterly* 10(3): 181-1198 (1986).

¹¹ Tough *et al.*, p.7.

¹² Cited in Tough *et al.*, p.8.

¹³ Tough *et al.*, p.8.

¹⁴ Tough *et al.*, p.10.

¹⁵ Tough *et al.*, p.17.

¹⁶ Tough *et al.*, p.11.

¹⁷ Tough *et al.*, p.16.

¹⁸ Tough *et al.*, p.13.

¹⁹ Tough *et al.*, p.17.

²⁰ Tough *et al.*, p.18.

²¹ Cardinal and Hildebrandt, pp.19-21.

²² Tough *et al.*, p.23.

²³ Royal Commission on Aboriginal Peoples, *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, Ottawa: Minister of Supply and Services Canada, 1996, p.115; see also Tough *et al.*, p.58.

²⁴ As cited in the *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.116.

²⁵ Tough *et al.*, pp.59-60.

²⁶ See Tough *et al.*, pp.36-55.

²⁷ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, pp.160-161.

²⁸ Tough *et al.*, pp.63-65; see also James Morrison, “The Robinson Treaties of 1850: A Case Study”, research study prepared for the Royal Commission on Aboriginal Peoples, 1993. This study provides an account of the treaty negotiations from both the Crown and the Indian perspective.

²⁹ As cited in the *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.158.

³⁰ Tough *et al.*, pp.65-67.

³¹ Tough *et al.*, pp.77-78.

³² Tough *et al.*, p.77.

³³ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, pp.158-159.

³⁴ Tough *et al.*, p.117.

³⁵ Tobias, John L., "Canada's Subjugation of the Plains Cree, 1849-1885", in J.R. Miller, ed., *Sweet Promises: A Reader on Indian-White Relations in Canada*, Toronto: University of Toronto Press, 1991, pp.212-240.

³⁶ St.Germain, Jill, "A Comparison of Canadian and American Treaty Making Policy with the Plains Indians, 1867-1877", unpublished Master's Thesis, School of Canadian Studies, Carleton University, 1998.

³⁷ Great Britain, *Report of the Select Committee on the Hudson's Bay Company*, 1857, p.445.

³⁸ The *Manitoban*, as cited in Alexander Morris, *The Treaties of Canada with the Indians of Manitoba and the North-West Territories Including the Negotiations on Which They Were Based*, Saskatoon: Fifth House Publishers, 1991, pp.59-62. Emphasis in original document.

³⁹ The *Manitoban*, as cited in Alexander Morris, p.61.

⁴⁰ See Morris, Treaty No. 1, pp.313-314; Treaty No. 2, p.317; and Treaty No. 3, p.321 for almost identical wording.

⁴¹ Tough *et al.*, pp.110-111.

⁴² Tough *et al.*, pp.111-112.

⁴³ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.164.

⁴⁴ Treaty No. 7 with the Blackfoot Confederacy is not included, Treaty No. 7 boundaries are essentially within the present-day province of Alberta. It was negotiated by the same Crown team, however, with the same aims and similar results.

⁴⁵ Tough *et al.*, p.199.

⁴⁶ Tough *et al.*, p.203; see also Morris, pp.81-82 and report of proceedings in Morris, pp.99-107.

⁴⁷ Report of proceedings in Morris, pp.99-104.

⁴⁸ Elder Danny Musqua, Keeseekoose First Nation, Treaty Elders' Forum, Nekaneet Recreation Centre, Saskatchewan, May 22-24, 1997.

⁴⁹ Treaty No. 4 in Morris, p.331.

⁵⁰ *Report of the Royal Commission on Aboriginal Peoples*, vol.1, pp.167-168.

⁵¹ Elder Danny Musqua, *supra* note 48.

⁵² Morris, pp.143-144.

⁵³ Tough *et al.*, p.231.

⁵⁴ *Report of the Royal Commission on Aboriginal Peoples*, vol.1, p.168.

⁵⁵ Tough *et al.*, p.246.

⁵⁶ W.J. Christie quoted in Morris, pp.170-171.

⁵⁷ The Hon. David Mills quoted in Morris, p.172.

⁵⁸ Morris, p.183; see also Tough *et al.*, p.254.

⁵⁹ Tough *et al.*, pp.261-262.

⁶⁰ Tough *et al.*, pp.280-281.

⁶¹ Tough *et al.*, p.302.

⁶² Cited in Tough *et al.*, p.293.

⁶³ Canada, *Sessional Papers*, 1899, Annual Report of the North-West Mounted Police, Paper No. 15, p.13.

⁶⁴ Public Archives of Canada (PAC) RG10 Vol. 3848, File 75236-1. J.A.J. McKenna to Clifford Sifton, Ottawa. 17 April 1899.

⁶⁵ Cardinal and Hildebrandt, p.38.

⁶⁶ Cited in the *Report of the Royal Commission on Aboriginal Peoples*, vol.1, p.171.

⁶⁷ Tough *et al.*, p.313.

⁶⁸ Tough *et al.*, p.321.

⁶⁹ Tough *et al.*, p.325.

⁷⁰ Cited in Tough *et al.*, p.326.

⁷¹ PAC RG10, vol. 4009, File 241,209-1 18 January 1907; cited in Tough *et al.*, p.340.

⁷² PAC RG10, vol. 4009, File 241,209-1 18 January 1907; cited in Tough *et al.*, p.341.

⁷³ PAC RG10, vol. 4009, File 241,209-1 18 January 1907; cited in Tough *et al.*, p. 342.

⁷⁴ Tough *et al.*, pp.343-344.

⁷⁵ Tough *et al.*, pp.356-357; see also Isabel Andrews, "Indian Protest Against Starvation: The

Yellow Calf Incident of 1884”, *Saskatchewan History*, vol. 28, no. 2 (1975); Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy*, Montreal & Kingston: McGill-Queen’s University Press, 1990, pp.121-122.

⁷⁶ Tough *et al.*, p.357.

⁷⁷ Tough *et al.*, pp.372-375.

⁷⁸ See Sarah Carter, *Lost Harvests: Prairie Indian Reserve Farmers and Government Policy*; Helen Buckley, *From Wooden Ploughs to Welfare: Why Indian Policy Failed in the Prairie Provinces*, Montreal & Kingston: McGill-Queen’s University Press, 1992; A.C. Hamilton and C.M. Sinclair, *Report of the Aboriginal Justice Inquiry of Manitoba*, Winnipeg: Province of Manitoba, 1991; and the *Report of the Royal Commission on Aboriginal Peoples*, vols. 1-5.

⁷⁹ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.7.

⁸⁰ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, pp.177-178; Chapter 9 of the Report provides a detailed description of the evolution of Indian policies and legislation in Canada, including the *Indian Act*. It should be noted, however, that Section 88 of the *Indian Act* provides for the primacy of treaty rights over provincial laws.

⁸¹ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.281 and pp. 297-298. Some examples of the powers of Indian Agents in the late 1890’s included directing the farming operations on reserves; allocating passes for First Nations people wanting to leave reserves for specific periods of time; administering relief to the people in the community; ensuring the rules of the Department were followed, for example, ensuring children attended residential schools and regulating the sale of livestock, implements, and other forms of revenue; presiding over elections on reserves; and acting in the capacity of justices of the peace.

⁸² Leslie, John and Ron Macquire, “The Historical Development of the Indian Act.” *Treaties and Historical Research Centre, DIAND*, 1979, pp. 2-20; 23-35; 71-76.

⁸³ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, pp.274-275; *Report of the Aboriginal Justice Inquiry of Manitoba*, pp.121-123.

⁸⁴ *The Indian Act, 1876*. S.C. 1876, c.18. (39 Vict.); the *Indian Act, 1880*. S.C. 1880, c.28. (43 Vict.); See also Daugherty, W., and Dennis Madill, “Indian Government Under Indian Act Legislation, 1868 - 1951,” *Treaties and Historical Research Center, DIAND*, 1980.

⁸⁵ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, pp.275-276; see also J.L. Tobias, “Protection, Civilization, Assimilation: An Outline History of Canada’s Indian Policy” in J.R. Miller, ed., *Sweet Promises: A Reader on Indian-White Relations in Canada*, Toronto: University of Toronto Press, 1991.

⁸⁶ Miller, J.R., *Shingwauk’s Vision: A History of Native Residential Schools*, Toronto:

University of Toronto Press, 1996, p.105; see also J. Barman, Y. Herbert and Don McCaskill. *Indian Education in Canada: The Legacy*, Vancouver: University of British Columbia Press, 1986, pp. 90-92.

⁸⁷ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.335; see also Katherine Pettipas, "Severing the Ties That Bind: The Canadian Indian Act and the Repression of Indigenous Religious Systems in the Prairie Region", unpublished doctoral thesis, University of Manitoba, Winnipeg, Manitoba, 1989, pp.176-179.

⁸⁸ Jenness, D., *Indians of Canada*, Ottawa: National Museum of Canada, 1960, p.264.

⁸⁹ Cited in the *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.183.

⁹⁰ Pettipas, Katherine., pp.220-226, pp.233-260; see also *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, pp.291-293.

⁹¹ The pass system was introduced as a policy and was often implemented at the discretion of the Indian Department officials. The pass system was never legislated through Parliament and was later phased out during the 1920s and 1930s. In the aftermath of the 1885 Rebellion, if a Band was considered disloyal, the people would most often face the harsher application of the pass system while the "loyal" Bands were rewarded. See John L. Tobias, "Canada's Subjugation of the Plains Cree, 1849-1885,"; Laurie Barron and James B. Waldram eds., *1885 and After: Native Society in Transition*, 1986; and Norma Sluman and Jean Goodwill, *John Tootosis: Biography of a Cree Leader*, Ottawa: Golden Dog Press, 1982.

⁹² Pettipas, pp.248-249.

⁹³ Cited in Pettipas, pp.268-269; also in "Chief Thunderchild to the Department of Indian Affairs", PAC RG10, Vol. 3,826, File 60, 511-4, Part 1, 4 June 1914.

⁹⁴ Carter, p.115.

⁹⁵ Federal government policies and constitutional amendments, especially those introduced in the last two decades, have moved to address many of the issues which have troubled the relationship between Canada and First Nations. These initiatives include: the comprehensive and specific land claims processes; Sections 25 and 35 of the *Constitution Act, 1982* (as amended), which addresses aboriginal and treaty rights; treaty land entitlements, which address unfulfilled promises of land; self-government negotiations; the Statement of Reconciliation, which includes a response to the residential school system policy; and "Gathering Strength – Canada's Aboriginal Action Plan" the most recent federal government policy statement. Although progress is being made, much remains to be done.

3. Developing New Understandings

Between May of 1997 and March of 1998, Canada and the Federation of Saskatchewan Indian Nations engaged in discussions, through the auspices of the Office of the Treaty Commissioner, to explore each others' understandings of the nature of the treaty relationship, and to examine the policy implications of building on the treaty relationship. The parties travelled to each of the five treaty areas in Saskatchewan to hear from Treaty First Nations elders about their understanding of their treaties – their purposes, their objectives, and the nature of the relationship between First Nations and Canada. The discussions began by looking at how the parties have historically approached the treaty relationship, and the implications of these different approaches for the work of the Exploratory Treaty Table. This is a new process; it represents the first time in the 124 years since the first treaty was concluded in Saskatchewan that the federal government formally came to listen and to learn, and to explore the treaty relationship.

3.1 Canada's Approach to the Exploratory Treaty Table Discussions

At the beginning of the Exploratory Treaty Table discussions, Canada stated that, consistent with its commitment to working in partnership with Treaty First Nations in Saskatchewan, it would undertake not to create new policies or change its policies with respect to treaties in advance of the Exploratory Treaty Table discussions. Instead, it would outline Canada's current understandings regarding treaties in Saskatchewan and seek the views of Treaty First Nations regarding how best to achieve "a mutually acceptable process to interpret the treaties in contemporary terms, while giving full recognition to their original spirit and intent."¹ Canada came to listen and to gather information to better understand the implications of moving forward building on the treaty relationship in Canada.

While the federal government provides to First Nations a range of programs and services, it generally has not identified whether the activities are based on treaty, statute or policy. This is because the Government of Canada, as a matter of public policy, seeks to provide a basic

level of health care, access to education, economic opportunities, and the like to all citizens, regardless of treaty status.

Canada recognizes that Treaty First Nations have constitutionally protected rights which exist in addition to the basic rights, protections, and freedoms which they enjoy as Canadian citizens. Treaty-protected rights to hunting, fishing and trapping on unoccupied Crown lands and the annual payment of treaty annuities are two examples.

In presenting its views on treaties and the treaty relationship, the Government of Canada affirmed that the *Royal Proclamation* of 1763 identified a special role for the Crown in relation to First Nations. Canada understood that through treaties the parties created mutually binding obligations that were to be solemnly respected. It further understood that section 35 of the *Constitution Act, 1982* recognizes and affirms existing Aboriginal and treaty rights of the Aboriginal peoples of Canada. The federal government looks to the courts for guidance regarding the nature of treaties.²

In understanding the nature of its treaty obligations toward First Nations, the federal government relies primarily upon a legal analysis of the written texts of treaties produced by the Crown and concluded by representatives of both the Crown and First Nations. It also relies upon the testimony of witnesses and participants to the original treaty-making following rules of treaty interpretation as articulated by the Supreme Court of Canada.

The terms of the *Natural Resources Transfer Agreement* and the *Constitution Act, 1930* provided for the transfer of federal government interests in all Crown lands, mines, minerals and royalties derived therefrom to the Province of Saskatchewan, subject to any existing trusts and obligations, including those under treaty. Indian reserves and national parks remained with the federal Crown, the parks as occupied Crown lands. The provincial government now has the capacity to legislate, regulate and collect revenue from all lands (except those of the federal Crown), Crown forests, surface and sub-surface minerals. The roles and responsibilities of the federal and provincial governments are affected accordingly.

To address specific issues related to the fulfilment of treaty obligations, the federal government has established specific claims and treaty land entitlement processes. These processes address a range of issues, including breaches of treaty, and are consistent with treaty interpretation based primarily upon a legal analysis of the written texts of treaties.

The federal government recognizes the inherent right of self-government as an existing Aboriginal right under section 35 of the *Constitution Act, 1982*. As a matter of federal policy, recognition of the inherent right is based on the premise that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are integral to their unique cultures, identities, traditions, languages and institutions; internal to their communities; or as they relate to their lands and their resources. While this right does not derive from the historic treaties, the inherent right to self-government may find expression in treaties, building on the Crown's relationship with Treaty First Nations.

The federal government sees the treaties as important building blocks of the Canada-First Nation relationship, and believes that a better understanding of treaties will help strengthen the partnership between Canada and First Nations. The federal government understands that the treaties between Canada and First Nations were intended by the parties to endure into the future, and that treaties define fundamental aspects of the continuing relationship between Canada and First Nations. The federal government is committed to strong, effective First Nations' governments within Canada and believes that these can be achieved within the con-

text of a treaty relationship through trilateral intergovernmental agreements.

In the course of the Exploratory Treaty Table discussions, the federal government examined all sources of information which could assist the parties in developing a fuller and more complete understanding of the treaties. These sources included the written texts of the treaties, accounts written by Commissioners and others present at the time of treaties, legal interpretations and expert opinions, and oral accounts transmitted by witnesses and participants in the treaties. The federal government acknowledged that the Treaty First Nations Elders of Saskatchewan had an important role to play in the exploratory discussions, and welcomed their presence at the Exploratory Treaty Table to speak to their understanding of the nature of treaties and treaty obligations.

The federal government wishes to build a stronger and more effective partnership between Canada and the Treaty First Nations of Saskatchewan. By recalling that treaties were made for the mutual benefit of both parties, and by developing common understandings of the treaty relationship, the federal government believes that the treaty relationship may provide a framework for our shared future together.

3.2 FSIN's Approach to the Exploratory Treaty Table Discussions

The FSIN emphasized that it was important to contextualize the discussion in terms of how they have conceived of the treaty relationship, how they understand the history of the treaties, how they view the purposes of treaty-making, and how they interpret the objectives of the parties. During the Exploratory Treaty Table discussions, the FSIN relied upon the elders' oral history for an overview of treaty-making in Saskatchewan, including the motivations, understandings, and commitments made by the parties negotiating the treaties.

Just as the spirituality of First Nations had informed their actions at the time of treaty-making, it would also guide FSIN in its approach to the exploratory discussions and how best to implement the treaty relationship. As Elder Jacob Bill put it:

We say it's our Father (the Creator), he [the whiteman] says that in his language, it's "our Father." So from there he becomes our brother and we have to live harmoniously with him. There should not be any conflict, we must uphold the word – *wetaskewin* ... it means harmonious living.³

In the view of the FSIN, Treaty First Nations entered into treaties with the Crown for the purpose of securing a positive future for their children and their children's children. At the time of the treaty-making, First Nations were aware that changes were coming. They entered into treaties to ensure that future generations would continue to:

- govern themselves according to the comprehensive body of laws given to them by the Creator;
- make a living, providing for both the material and spiritual needs of themselves and their families; and
- live in brotherhood and peace with their neighbours.

These three objectives guided Treaty First Nations at the time of treaty-making. They believed that the arrangements which were agreed upon at the time of treaty-making would lead to a better future for both parties. Speaking of the treaties, Treaty 6 Elder Jimmy Myo said:

One of the main reasons why we have – we want to hang on to our treaties as old people is because we cannot go back and lie to God because we used the spirit when we negotiated with the treaties at the time. We used the spirit, we used prayer, we used the pipe. So we wouldn't lie ... We believe in our pipe and our prayers and we want them to be strong. And at the time that we talked about the treaties, it was peace. In our treaties there is peace in there. It is also said they were talked about, that all the poor people would be looked after, we would be just like relatives, brothers and sisters between the white and the Indian people, and when they said all the poor people would be looked after. Today we see that there are a lot of people that are hungry, including the white man ... if the treaty was kept the way it was made, the way it was promised, today the Indians wouldn't be hungry, today the white people wouldn't be hungry, because what was put in that treaty was powerful, God ... We're not trying to cheat anybody. We're not trying to make anybody poor. We just want to keep our treaties the way they were promised, and we want the white man to be friends with us, and we don't want them to go broke and be poor because of the treaties. It is said in our treaties that everybody would be equal, the white and the Indian people, no one would be short of anything.⁴

Equal treatment as explained by the elders does not mean that everyone should be treated in an identical manner. Treaty First Nations have internal laws, languages, customs, ceremonies, and traditions, for example, which are different from those of other peoples. From their perspective, what is important is that these arrangements are based on respect for one another. This includes respect for Treaty First Nations' governance over their own affairs within the family, the community, and the nation, as well as respect for the continuance of First Nations' cultures, languages, and spirituality.

As well as mutual respect, there would be assistance for one another in times of need. As Treaty 4 Elder Danny Musqua described it:

.... we made a covenant with her Majesty's government, and a covenant is not just a relationship between people, it's a relationship between three parties, you and me and the Creator ... I believe that we can come to an understanding that what we did a hundred years ago, a hundred and twenty-five years ago was so important for both of us that we can continue this apparatus, we continue this process of walking side by side and coming to terms on how we can help one another, because that's all we wanted, was for you to help us continue to exist. We depended upon the fact that you would be benevolent and that your benevolence would ensure our existence into perpetuity, just as long as there is a Crown in right of Canada we would also exist as a nation within this nation at our understanding, not anybody else's, of how that nation is going to run.⁵

3.2.1 Governance

In the view of the FSIN, there were certain areas of traditional authority over their own people that the chiefs and headmen retained at the time of treaty-making. Responsibility for children and for the well-being of families was vested in chiefs and headmen and retained by First Nations. Similarly, Treaty First Nations retained responsibility for the education of their own people in all areas except those where the newcomers could contribute special skills and knowledge. Treaty First Nations expected to retain responsibility for the transmission to future generations of their forms of social and cultural organization, their spiritual beliefs, and their skills and knowledge related to hunting, fishing, trapping, and gathering, among other matters. First Nations expected to retain both the authority and the capacity to govern their own people according to their laws and their systems of justice. They would respect the laws of the Crown and, in return, the Crown would respect the authority of First Nations in matters of governance over their own lands and people.

3.2.2 Livelihood

In accordance with First Nations' understandings of the requirements for a good life, they sought assurances from the Crown that their way of life and livelihood would continue into the future. Following concepts such as the Cree concept of *pim atchi hoo win* or "making a living," Treaty First Nations sought to secure the means to economic well-being for themselves and for future generations.⁶ Two means of making a living were envisioned: continuance of traditional ways of livelihood (most notably, hunting, fishing, trapping, and gathering); and participation in the new economies introduced by the newcomers (most notably, farming).

At the time of treaty-making, First Nations were aware that limited amounts of land would be used by the newcomers. They sought assurances from the Crown that they would remain free to hunt, fish, trap, and gather on the remaining lands of their traditional territories. First Nations understood that the Crown would not interfere with the activities of those First Nations that wished to maintain traditional ways of life. The parties agreed that the Crown would provide regular specified contributions of twine, ammunition, and nets to help First Nations continue traditional pursuits without enduring hardship.⁷ From the perspective of Treaty First Nations, the parties did not agree to the Crown's regulation of hunting, fishing, and trapping, to seasonal restrictions, to licencing requirements, or to restrictions on Treaty First Nations' access to unoccupied lands.

The First Nations at the time of treaty-making knew that their world was changing as a result of increased settlement and economic activity. In the south, the buffalo were disappearing on the prairies. In the north, mining exploration was taking place, and declining fur prices resulted in wide-spread famine. Epidemics of influenza and smallpox added to the hardship faced by First Nations. The First Nations saw that the newcomers had knowledge, skills and technologies which could benefit their people. In negotiating the treaties, chiefs and headmen wanted to ensure that their people had a means of earning a living. For those people who could not continue – or did not want to continue – solely traditional economic pursuits, First Nations sought the means for their participation in the new economies.

As a result of treaty negotiations, Treaty First Nations would retain certain lands for their sole use, and they would be given agricultural implements and stock to enable them to begin farming if they so desired. The Crown agreed to provide schools to enable Treaty First Nations to secure the skills and knowledge needed to fully participate in the new economies.⁸

The chiefs and headmen wanted the medicines and the medical expertise needed to deal with the new diseases. They also wanted to have the Crown take upon itself the duty of coming to the aid of Treaty First Nations in times of need and in times of distress, for example, in times of pestilence or famine.⁹ The FSIN also expressed the view that the payment of annuities – the annual payments of cash to First Nations – was recognition of the Crown’s ongoing commitment to ensure that First Nations are provided with access to the skills, training, and resources needed for livelihood.

3.2.3 Brother-to-Brother Relations

Treaty First Nations saw the treaty arrangement as a partnership in which the two parties live together as brothers, side by side. They emphasized that the treaties were made in an atmosphere of mutual respect, and that the parties made solemn commitments to live in peace and to help one another. They also stressed that the treaties began a relationship which requires that both parties benefit, that both parties are involved in decision-making, and that consultation occurs regularly to ensure that the relationship remains strong.

In their description of the relationship forged by the treaties, First Nations emphasized that they expected the treaty partners to come together regularly to discuss matters of mutual concern. While circumstances and issues might change, the basic commitment to respect each other and to help one another was expected to endure as long as the sun shines and the rivers flow. Treaty 6 Elder Jonas Lariviere said that, “... we should simply be partners and be together side by side.”¹⁰

Endnotes

- ¹ Liberal Party of Canada, “Creating Opportunity: The Liberal Plan for Canada”, 1992, p.98.
- ² This subsection is a summary of “Preliminary Views on Treaties and the Treaty Relationship”, paper tabled by the Federal Representative, Canada - Federation of Saskatchewan Indian Nations Exploratory Treaty Discussions, July 15 -17, 1997.
- ³ Elder Jacob Bill, Pelican Lake First Nation, Treaty Elders’ Forum, Jackfish Lake Lodge, Saskatchewan, November 12-14, 1997.
- ⁴ Verbatim transcript of oral presentation by Elder Jimmy Myo, Moosomin First Nation, to the Exploratory Treaty Table on September 5, 1997.
- ⁵ Verbatim transcript of oral presentation by Elder Danny Musqua, Keeseekoose First Nation, to the Exploratory Treaty Table on September 5, 1997.
- ⁶ Although this is a Cree concept, other First Nations in Saskatchewan have similar concepts and share this view.
- ⁷ See Tough *et al.*, pp.259, 311-313, 342-343.
- ⁸ See Tough *et al.*, pp.216-219, 263, 314.
- ⁹ See Tough *et al.*, pp.258-260.
- ¹⁰ Elder Jonas Lariviere, Canoe Lake First Nation, Treaty Elders’ Forum, Meadow Lake, November 24, 1997. Translated from Cree to English.

4. Policy Implications of Building on the Treaty Relationship

In the work plan for stage one of the Exploratory Treaty Table, the parties agreed to have in-depth discussions on seven specific topics in order to focus their efforts: child welfare; education; shelter; health; justice; treaty annuities; and hunting, trapping, fishing and gathering. These in-depth discussions followed the more general exploration of the nature of the treaty relationship.

The FSIN and Canada tabled papers outlining their preliminary views for discussion on each of the seven topics. These papers provided information on the parties' understandings of the nature of the commitments made in each of the seven areas at the time of treaty-making.

In each of the papers tabled for discussion, Canada included excerpts from the written texts of each of the five treaties, excerpts from the reports of Alexander Morris and recommendations from the *Report of the Royal Commission on Aboriginal Peoples* related to the seven topics to assist in discussions. Canada provided a description of existing policies, programs and services to Saskatchewan First Nations in each of the seven areas, indicating current federal and provincial roles. For each topic, Canada included information on any federal views to date with respect to obligations related to treaties.

The FSIN provided its preliminary views on contemporary issues arising from the treaties. It was the introductory presentation to the Exploratory Treaty Table on the crucial role the treaties and the treaty relationship have in Saskatchewan.

The Exploratory Treaty Table discussions were designed to bring forward the views of Treaty First Nations on each of these seven topics, and for this reason, Treaty Elders spoke first at these sessions. Canada then followed by asking questions which sought to explore the policy implications of building on the Treaty First Nations' understanding of the treaty relationship in the particular topic under discussion.

As discussions proceeded, it became increasingly apparent to the parties that the program area or jurisdictional approach to treaties reflected in the work plan was being replaced by a more holistic approach, emerging from the Exploratory Treaty Table discussions. The discus-

sions did not focus on rights or on existing programs and policies. The parties in effect “deconstructed” the original, segmented approach of seven topics as defined in the work plan and replaced it with a more integrated perspective, one which was more consistent with Treaty First Nations’ understanding of the treaties, and with Canada’s commitment to develop strong partnerships with First Nations.

Results from initial discussions suggested that the seven topics would be most productively addressed by taking into account their relationship to three broadly defined objectives of treaty-making as understood by Treaty First Nations – livelihood, governance, and brother-to-brother relations. Treaty First Nations explained that, from their perspective, the objectives of building on a treaty relationship in the future are the same as they were at the time of treaty-making. Together, the parties explored the implications of acting together to realize the goals of livelihood, governance, and brother-to-brother relations as articulated by Treaty First Nations on the nature of the treaty relationship. Given the nature of federal and provincial jurisdiction in these fields, the parties acknowledged the necessity of working with the Government of Saskatchewan in order to achieve their objectives.

We now turn to a summary of the discussions of the seven subjects identified in the work-plan of the Exploratory Treaty Table.

4.1 Children and Families

Today, the Treaty First Nations’ population is growing more rapidly than the general population in Saskatchewan. From 1991 to 1996, the population grew by 22% whereas the provincial population remained considerably stable.¹ The population of First Nations in Saskatchewan can be characterized as relatively young.² A larger, more youthful, First Nations population in Saskatchewan will impact the areas of health, education and justice.

Current data demonstrate that conditions for First Nations people in Saskatchewan are significantly poorer than for the general Saskatchewan population. The formal education levels for the on-reserve First Nation population are improving but the gap between First Nation education levels and non-First Nation levels is still wide. For example, the proportion of the on-reserve adult population with at least grade 12 increased from 29% to 34% between 1991 and 1996.³ The proportion of the general Saskatchewan population with at least grade 12 was 57% in 1996.⁴

The employment rate on-reserve is still at one-half of the general rate – only 31% of the population 15 and older on-reserve were employed in 1996 compared with 62% in the province.⁵ In 1995, the average income for on-reserve households was less than one half the provincial average.⁶

In Saskatchewan, the 1996 infant mortality rates for Treaty First Nations were double that of the provincial average.⁷ As well, death resulting from suicide continues to present problems in reserve communities. Suicides are much higher among the First Nations population. The number of deaths resulting from suicide on First Nations reserves was over double that of the general Saskatchewan population between 1991 and 1996.⁸

During the Exploratory Treaty Table discussions, the FSIN and Treaty Elders identified three areas in urgent need of change. These were education, child welfare and justice. Canada was told that the lack of Treaty First Nations’ authority and control in these areas hampers their ability to exercise responsibility for the well-being of their people.

The FSIN believes that a more integrated perspective and approach to social policy and

programming affecting children and families would lead to better results for Treaty First Nations. If Treaty First Nations were to be able to act together, coordinated on a province-wide basis, the resulting economies of scale would allow Treaty First Nations to undertake aspects of care not possible if jurisdiction is exercised solely at the level of the Indian Band. Currently Indian Bands exercise delegated jurisdiction and authority under the *Indian Act*. If aspects of jurisdiction could be exercised at a province-wide level, for example, it may be feasible, through intergovernmental agreements, for Treaty First Nations to operate their own post-secondary educational institutions, to develop comprehensive First Nations' curricula for primary and secondary schools, and to implement teacher accreditation. As well as allowing for the implementation of Treaty First Nations' governance in new areas, economies of scale could make possible cost savings and reduced duplication of services, could facilitate the development of improved capacity in administration, delivery of services, and accountability, and could provide greater opportunities for Treaty First Nations to benefit from the experiences of one another.

4.1.1 Education

In its preliminary views on implementing treaties, the FSIN said that, at the time of the treaty-making:

First Nations had their own systems of education based upon their values and traditions. Treaty Nation educational systems transmitted knowledge, language, values and skills to First Nation citizens. They enabled individual citizens to develop personal and interpersonal skills so that they could become productive citizens. Education provided each member of society with the skills and abilities needed for survival as individuals and the continuing growth and evolution of the nation as a whole.

Aware of the developing new economy and new forms of livelihood which were developing in various parts of Canada at the time of the treaties, the Treaty First Nations asked for the introduction of the various forms of education to augment their own educational systems so that they could better understand the new immigrant society and the new forms of livelihood which they brought.⁹

Treaty First Nations also wished to learn the language of the newcomers so that in the future, the treaty partners would be able to communicate clearly with one another and thus avoid misunderstandings.¹⁰ These goals persist today according to Elder Ben Lachance:

I very strongly believe that an education system should consist of a holistic education and not just book learning. A person should know how to survive in the bush and he should know how to talk to a lawyer, and how to do financing for a house at the bank, or mortgage a house and finance a car. All that is part of a knowledge base.¹¹

Elder James Ironeagle spoke in a similar vein:

It is important that young people understand the culture. Education is necessary today. When you have the two you are strong because you are retaining your culture, your spirituality, and the language. Without the language, we cannot do the ceremonies. We

cannot use the pipe in English. You see today, you look out today. You see everything that is out there. You live in a spiritual world. As elders, our role is to teach, but we are still learning. So education goes on and on.¹²

In the view of the FSIN, past policies have resulted in a situation where many Treaty First Nations are not currently in a position to teach their children Treaty First Nations languages, customs, traditions, and ways of living. Treaty First Nations are seeking the Crown's assistance to ensure that traditional knowledge and skills can be reliably transmitted to their children and grandchildren. This work requires healing, retrieval of traditional information from elders and other experts, and rebuilding and reaffirming Treaty First Nations' identity. Treaty First Nations see a need to continue building confidence and pride in traditional ways so that First Nations children appreciate and understand their extraordinary history to enable them to move forward with confidence.

Treaty First Nations also require an educational system which will provide their people with opportunities to acquire the skills and knowledge that they need in order to participate effectively in the global economy. This would require a close working partnership among the Treaty First Nations of Saskatchewan and both the federal and provincial governments and related institutions, together with the negotiation of appropriate intergovernmental agreements.

From the perspective of Treaty First Nations, implementation of the treaty relationship in a contemporary context would involve First Nations' control over their own educational system. Treaty First Nations' institutions would provide children with training in First Nations' traditional livelihood skills, languages, values, traditions, customs and history. These institutions would also provide education and training to enable Treaty First Nations to participate as equals in the broader economy.

The Treaty First Nations of Saskatchewan want their own institutions for early childhood education, kindergarten, elementary, and secondary education. They recognize the importance of Treaty First Nations-controlled post-secondary institutions such as the Saskatchewan Indian Federated College. This institution prepares individuals for participation in both traditional ways of living and non-traditional economic and social life, and fosters a sense of integration and well-being among Treaty First Nations youth.

Regarding funding for post-secondary education, Treaty First Nations believe that individuals should have access to quality education to enable them to fully participate in and contribute to the economic well-being of themselves, their families, and their communities. The objective should be parity of educational achievement of First Nations students with that of other Saskatchewan students. Resources for post-secondary education could be collectively managed by Saskatchewan Treaty First Nations governments on behalf of their people. Individuals receiving support could be accountable to boards or other institutions managing the funds, and these boards could be accountable to the communities on whose behalf they acted.

Treaty First Nations envision a system in which Treaty First Nation and non-Treaty First Nation individuals would be able to choose the school which they wished to attend. In urban areas, for example, there would be institutions under Treaty First Nation jurisdiction, institutions under provincial jurisdiction, and institutions in which jurisdiction would be shared

between Treaty First Nations and the provincial government. First Nations' educational institutions at all levels of education would be open to all individuals, and enrollment would be a matter of individual choice.¹³

The parties identified a number of policy implications that would need to be addressed in order to implement Treaty First Nations' vision of governance in the area of education. How would Treaty First Nations organize themselves to pass laws respecting education within First Nations jurisdictions? How would Treaty First Nations address the matters of teacher accreditation, curriculum and curriculum development, special education, teaching methodologies and pedagogies, and monitoring and evaluation? Financing would need to be discussed as well as mechanisms to allow for harmonization with other government educational systems (for example, establishment of education level equivalencies and free movement of students between First Nations and provincial school systems). Would resources for education be allocated to meet a standard of parity with education available to non-Treaty First Nations people?

Both parties thought that significant progress in understanding the policy implications of building on a treaty relationship in the field of education had been gained. They agreed that it would be useful to involve the province in further discussions and negotiations to pursue Treaty First Nations governance in the field of education, as part of an overall province-wide Treaty First Nations governance initiative.¹⁴

The parties strongly believed that more information about First Nations and about the history of relations between First Nations people and non-First Nations people needs to become part of the education of all children. The people of Saskatchewan would benefit from knowing more about the shared history of the treaty partners, the contributions of the partners to each other's well-being, and the solemn duties toward one another which are part of the treaty relationship. These topics should be part of the curriculum of every school as well as part of a broader, province-wide public education effort.

4.1.2 Child Welfare

During treaty negotiations, chiefs and headmen sought commitments from the Crown to help them and their families in times of great difficulty, "pestilence and famine," and to ensure their ongoing ability to exercise care for their families and children.¹⁵ Responsibility for children and families is one of the fundamental and sacred laws of First Nations. It was out of this responsibility, at treaty-making, that leaders spoke on behalf of the children and children yet unborn, as Chief Mistawasis did at the Treaty 6 negotiations at Fort Carlton in 1876:

What we speak of and do now will last as long as the sun shines and the river runs, we are looking forward to our children's children, for we are old and have but a few days to live.¹⁶

Elders told the Exploratory Treaty Table that there are comprehensive First Nations laws detailing matters related to families and individuals, which would not have allowed the chiefs and headmen at the time of treaty-making to relinquish their responsibilities or authority over matters related to family and child care.¹⁷ Elder Jimmy Myo stated:

When a child lost his dad or his mom or both, our law says, the Creator's law says,

look after that child. Have a lot of respect for it. Try [to make that child] comfortable, comfort him as much as you can. Take him as your own child, love him as your own child. That law was followed by every Indian.¹⁸

From the perspective of Treaty First Nations, child welfare is an area of responsibility which they retained at the time of treaty-making. They have often been prevented from exercising their jurisdiction in this area because of the application of federal and provincial laws. This has caused harm to their families, their communities, and their cultures.

Treaty First Nations say that restoration of their ability to respond to the needs of children and families in crisis would involve recognition of Treaty First Nations' authority in this area. It would also require resources for healing: support would be needed for Treaty First Nations as they restore and strengthen their communities' ability to care for children and families effectively. At the core of child welfare is the protection of children. As Elder Gordon Oakes said to the Exploratory Treaty Table:

...If we follow the teachings of our grandfathers, we will go a long way. But we are the teachers of our kids. We have to tell them and we have lost a great deal of practice...¹⁹

In the view of the FSIN, governance in the area of child welfare would entail jurisdiction over individuals rather than territory. Treaty First Nations child and family services would only apply to Treaty First Nations people, but protocols would be required between Treaty First Nations and other agencies in Saskatchewan to ensure that the responsibilities for children and families could be adequately met in emergency situations. While Treaty First Nations would exercise their authority to pass laws affecting children and families within their jurisdiction, they would also work closely with the provincial and federal governments to address matters related to residual provincial liability and to ensure harmonious working arrangements.

Both parties expressed strong interest in negotiations to address Treaty First Nations' governance in the area of child and family services, recognizing the role that the Government of Saskatchewan would need to play in such negotiations. In their discussions, the parties acknowledged that the work currently undertaken through Indian Child and Family Service agencies has provided opportunities for capacity-building within communities. For Treaty First Nations, however, that progress has been limited by the lack of control by First Nations over laws and regulations as well as over the allocation of resources.

The parties acknowledged that fulfilment of the responsibility of Treaty First Nations for the well-being of their families and children goes beyond the ambit of child and family services agencies. Treaty First Nations emphasized that, to meet the needs of families and children, extensive healing must take place within Treaty First Nation individuals, families and communities. Treaty First Nations' cultures, laws, and social organization need to be re-taught and re-established as a foundation for strong individuals and communities. Issues related to economic well-being need to be addressed: parents need to be able to earn a living; children need to live in warm, safe homes; and communities need to be able to provide quality health and educational services.

4.1.3 Justice

Elders told the parties at the Exploratory Treaty Table that since time immemorial First

Nations had a comprehensive body of laws which they relied upon to maintain peace and order and which guided their governmental activities and ensured their survival and security. The FSIN presented their understanding of the nature of First Nations jurisdiction in the area of justice:

The survival and security of First Nations and the well being of their citizens, since time immemorial has depended on their ability to follow the laws given by the Creator. Our *way of life* is governed by *the laws given to our nations by the Creator* including the principles, values and norms flowing from those laws. Our customs, traditions, beliefs and institutions are rooted in those laws. Hence, concepts of justice, as understood by our First Nations were central and integral to the survival of our Nations during the Treaty negotiations. They continue to be central and integral to our nations' survival today.²⁰

The Treaty First Nations strongly believe that during the treaty negotiations, they did not relinquish their authority or responsibility to govern their people in the area of justice. The Treaty First Nations also undertook to "maintain peace and good order" and "to aid and assist the officers of Her Majesty in bringing to justice and punishment any Indian offending against the stipulations of this treaty, or infringing the laws in force in the country." First Nations understood that if they could not resolve the situation through a Circle Talk, the Chiefs gave permission to the officers of Her Majesty to intervene in the administration of justice and punishment of an Indian.

From the perspective of the federal government, jurisdiction for the various subject matters within the field of justice were clearly contemplated in the numbered treaties as falling within the jurisdiction of the Crown. According to the written text of the treaties, Treaty First Nations agreed to solemnly and "strictly observe [the] treaty and also to conduct and behave themselves as good and loyal subjects of Her Majesty the Queen." They agreed to "assist the officers of Her Majesty in bringing to justice" any Indian offending against treaty stipulations or laws in force in the country, to "in all respects obey and abide by the law," and to maintain peace and good order "between each other, and also between themselves and other tribes of Indians, and between themselves and others of Her Majesty's subjects, whether Indians or whites."²¹

Canada stated that the Crown entered into the treaties after a long history of asserting and exercising jurisdiction in relation to the administration of justice in those parts of Canada formerly known as "Rupert's Land" and the "Indian Territory." By way of example, these include the *Royal Proclamation, 1763* and several pre-Confederation Acts of the Parliament of Great Britain.²² In addition, the grants and licences to trade in favour of the Hudson's Bay Company and the Northwest Company recognized the authority and responsibility of those firms to administer justice in relation to certain traders and employees in the territories concerned. Collectively, these assertions and exercise of jurisdiction by the Crown, over Indians and non-Indians, pre-dated the signing of the treaties and would have informed the view of the Crown in relation to jurisdiction for justice.

Legal and constitutional matters related to the jurisdiction of the Crown over justice and the written text of the treaties aside, the federal government has affirmed its support for a justice system that is more responsive to the needs of First Nations. Within the context of the treaty relationship, the federal government is prepared to look at the modern day opportuni-

ties for meeting the goals and expectations of Treaty First Nations in the area of justice. It is willing, for example, “to explore and learn from Aboriginal peoples’ long experience with non-adversarial decision-making and dispute resolution systems, and to support return of authority for First Nations to engage such systems.”²³

The Treaty First Nations have indicated that they will require assistance to restore the capacity and structure of their traditional laws and justice systems, and to work with other levels of government to create linkages between the different justice systems so that compatibility and consistencies are achieved. The Treaty First Nations and Canada and Saskatchewan would work toward reforming the existing justice system which impacts on Treaty First Nations with a view to making that justice system more responsive to the needs of First Nations.

The Treaty First Nations recognize that any negotiations in the field of justice would need to be pursued with the federal and provincial governments. The parties would have to address measures to ensure accountability and improved access to justice services throughout the province and throughout the various levels of the existing justice system. The parties would also be required to address matters regarding application of Treaty First Nations’ justice to non-First Nations individuals within Treaty First Nations’ lands, and to negotiate protocols for harmonization and exchange between the different jurisdictions in justice.

4.1.4 Summary Statement

The parties agreed that they had sufficiently identified the policy implications they face in building on the treaty relationship in the areas of education, child welfare, and justice such that they can now begin discussing these matters with the Government of Saskatchewan focussing on governance and fiscal matters.

4.2 Additional Areas for Action

The Exploratory Treaty Table focused on four topics in addition to education, child welfare and justice. These were: health; shelter; annuities; and hunting, fishing, trapping and gathering. Although discussions in these areas were productive, the parties did not think that these matters were ready to go to the negotiation stage. The parties identified a number of areas that would benefit from further work at the Exploratory Treaty Table.

4.2.1 Health

Elders told the Exploratory Treaty Table that First Nations had developed comprehensive healing systems to sustain the well-being of their people prior to the introduction of European medicines. These healing systems were anchored in the spiritual traditions, knowledge, beliefs and teachings of First Nations people, based on skills and knowledge of traditional medicines which could both be acquired within their specific territories.

First Nations at the time of treaty-making had considerable experience with the devastation which could be caused among their populations as a result of the new diseases introduced through contact with European traders, soldiers and settlers. Some Chiefs believed that they needed medicines to deal with some of these new diseases. During treaty negotiations, some Chiefs welcomed the offer of these medicines as part of their requirement for livelihood and the assurance of continuing a good way of life for their people.²⁴

During the Exploratory Treaty Table discussions, Cree Elders described Treaty First Nations expectations of the Crown as analogous to their understanding of *me wut*. *Me wut* was a medicine bag which required the services of a specialist with the knowledge to properly administer the medicines. It also required a special place for the treatment of patients, and assistants to help the specialist administer treatment, according to the FSIN:

For our Elders, the Crown undertaking meant a Crown commitment to provide and share with our Nations, all of the health resources and knowledge available in Her realm.”²⁵

Both the modern Western medical practices and traditional First Nations healing systems have important contributions to make to the well-being of Treaty First Nations peoples. The FSIN wishes to explore how Treaty First Nations governance in the area of health might help Treaty First Nations optimize the benefits of both the Western and traditional medical systems. One possibility suggested by First Nations is to establish institutions that integrate both systems. Institutions such as the Fort Qu’Appelle Indian Hospital could be further developed to become national or world centres for excellence, integrating traditional medicines and healing with Western medical practices.

Treaty First Nations may wish to have law-making authority when it comes to establishing standards of care for their people, and for the administration of hospitals, healing centres, and home care. In the area of traditional medicine, Treaty First Nations are seeking recognition of the legitimacy of traditional medicine. They want jurisdiction over the practice of traditional medicine, and support from the Crown to ensure that First Nations will be able to continue to practise traditional healing among their people. During the exploratory discussions, Treaty First Nations pointed to the need to maintain traditional healers, to provide them with ongoing access to lands to obtain supplies of medicinal plants and other traditional medicines, and to provide them with opportunities to share their knowledge and to transmit it to future generations.

The parties at the Exploratory Treaty Table acknowledged that they share a common goal – a health system which meets the needs of Treaty First Nations, including recognition and management of health risks to which First Nations are especially vulnerable. To this end, Canada supports Treaty First Nations in their desire to participate more fully in the management of health care services, and supports the transfer of federal responsibility over the administration of particular programs and services to First Nations communities. Many such transfers are currently underway.

Furthermore, Canada is willing to enter into negotiations to recognize First Nations’ jurisdiction and authority in certain areas of health care. At the present time, the delivery of health care programs and services to Treaty First Nations is a shared responsibility of the federal and provincial governments.²⁶ Therefore, the Government of Saskatchewan would need to be part of any negotiations in this area. The parties also agreed that Treaty First Nations’ health issues require further exploration by the parties before determining a future course of action for such negotiations.

4.2.2 Shelter

Prior to contact with Europeans, the Treaty First Nations of Saskatchewan provided for the shelter requirements of their people using the resources available to them from their traditional

territories. Meeting this requirement is no longer simple. Treaty First Nations require assistance to meet their shelter requirements until such time as they have a sufficient economic base to meet these needs themselves.

Treaty First Nations wish to address the shelter requirements of their people collectively, ensuring adequate shelter for their people both on- and off-reserve. They envision decentralization of decision-making and resources to Treaty First Nations' housing authorities, training to develop Treaty First Nations' expertise in the building trades, and better access by Treaty First Nations to materials needed for housing.

The federal on-reserve housing policy provides housing to on-reserve communities. Canada Mortgage and Housing Corporation and the provincial government fund housing programs off-reserve. Current federal housing policy emphasizes community control, local involvement, and linkages to economic development and employment.

Treaty First Nations believe that their shelter requirements might be approached more appropriately as part of a holistic and integrated approach to the physical well-being of First Nations. Any arrangements to address housing should consider funding requirements designed to facilitate long-term planning, enabling Treaty First Nations to benefit from economies of scale.

The parties thought that it would be useful to have further discussions on the policy implications of addressing shelter in the context of the treaty relationship.

4.2.3 Annuities

On the basis of discussions with Saskatchewan Treaty Elders, the FSIN described the annuities as the Crown's perpetual obligation to provide annual payments to the First Nations. Treaty First Nations believe that the provision of annuities to their peoples by the Crown was an economic benefit that was to supplement their livelihood. Some elders said that the annual payments were fixed amounts while others said that the economic value or purchasing power of the annuity payments had been rendered meaningless by the passage of time and change in economic circumstance. It is the understanding of Cree Elder Gordon Oakes of Treaty 4, whose history was passed to him by Sewepatun, that in this regard the Crown was to reconsider the value of the annuity and to adjust it as might be required so as to ensure the payment was appropriate. Additionally, the ceremonious distribution of monies on an annual basis is understood to be a reaffirmation of the treaty relationship between the parties.

Saskatchewan Treaty Elders recounted the words passed down to them and spoke of understanding that the yearly coming-together on Treaty Days was intentionally designed for the parties to Treaty to discuss matters of mutual concern. Year after year, members of many Treaty First Nations often travel great distances to be present for the time honoured tradition of Treaty annuity payment because it is an opportunity to meet with the Crown's representatives to renew the treaty and reaffirm the continuing nature of the treaty relationship. The Royal Commission on Aboriginal Peoples, similarly noted in its report that the yearly payment of annuities in many treaty areas "...is regarded as a formal opportunity to discuss and renew the relationship each year."²⁷

Canada stated that it views the payment of annuities as the fulfilment of an obligation set out in the specific terms of the treaty text. The text of the treaties identifies specific amounts to be paid and does not suggest that there should be any increase, indexing, or review of these amounts. For Canada, as well as for First Nations, annuities and the annual coming together

for their payment are an important and respected affirmation of the relationship between Canada and Treaty First Nations.

Elders at the Exploratory Treaty Table spoke of the need for clarification of federal government policies relating to treaty annuities. Such issues might be the subject of further discussion at the Exploratory Treaty Table.

4.2.4 Hunting, Fishing, Trapping, and Gathering

The traditional livelihoods of the Treaty First Nations of Saskatchewan were based on hunting, fishing, trapping, and gathering. At the time of treaty-making, Treaty First Nations sought assurances that they would be able to continue the traditional ways of living if they so chose. Traditional hunting, fishing, trapping, and gathering pursuits were important to Treaty First Nations for economic, social and spiritual reasons. In the words of Elder Peter Waskahat:

When you look at First Nations people on this land, in the past, even today, we are careful about what we were given to do. We were given the uses of everything on the land and Creation. We had ... our own teachings, our own education system teaching children that way of life, and how children were taught from the grandparents. They we taught how to view, to respect the land, and everything in Creation.

Through that, the young people were [educated about] what were the Creator's laws, what were these natural laws. What were these First Nations' laws. And talk revolved around a way of life, based on their values. For example: ...respect, to share, to care, to be respectful of people, how to help oneself. How to help others. How to work together.

...And when the other people came, all other First Nations know of these teachings of this traditional education system. Everyone had a role. Hunters, the elders, grandmother. Even looking for food, there were teachings for the young, for the adults, for the grandparents. A livelihood that was taught, that was what they had. ... survival of a people. In a lot of this, livelihood was taught...[to] many generations teachings from Creation. That is how they saw their world and understood their world. For example, Indians had our own doctors, our own medicine people.²⁸

It is unlikely that, over 100 years ago, either party anticipated so great an influx of settlers or the impacts they would have on land use. There is now much less land available for hunting, fishing, trapping, and gathering than at the time of treaty-making.

Treaty First Nations point out that, in those areas where it is still possible to engage in such activities, actions by the government (for example, the transfer of resources to the provincial government, and the licensing and regulation of hunting, fishing, trapping, and gathering) have lead to restrictions on the traditional livelihood activities of Treaty First Nations. Government actions typically have taken place without the consultation and consideration which Treaty First Nations see as befitting a proper treaty relationship. Moreover, in the view of Treaty First Nations, priority seems to be given by government to non-traditional activities such as commercial fishing operations, sport hunting and sport fishing. Elder Simon Robillard asked the parties:

When did we give him permission to have a lease on our lakes? I don't know of any

Elders who've basically consented to that and gave them that permission. Why does he have so much power and ability to take over the resources? So when we look at our young people here, what are they going to survive on in the future, if the government treats us like that? And they treat other people better than us.²⁹

Treaty First Nations said that they had their own laws governing the proper stewardship of resources, described as follows by Elder Danny Musqua:

Sometimes the peacemaker ... peace officer ... would sit in the circle with these people ... and they would come to an agreement ... these people had a lot of arrangements between one another and how they maintained peace with each other... And each person that occupied land had to care for that land ... so there was not overuse of it. Everything was governed by use. You couldn't abuse anything in there.³⁰

Treaty First Nations point to fishing derbies, to sport hunting where antler trophies are taken and the meat is left behind, and to night hunting with spotlights as examples of violations of the traditional teachings on respect and use of the land. Elder Danny Musqua recalled evidence of violations:

... we walked through that trapline and we found nine moose that had died and were wounded. In fact, we had to kill two of them, you know, and they didn't go after them. ... my father told me never to, never to cheat the animal. So I have never used a spotlight ... that is something I don't agree with, you know, and my father didn't agree with it ... that's something that's against the spirit of our people. You can't cheat the animal. You've got to give him that, you got to give him that flight distance; he's got to have time to run ... That's the reason why the Creator gave him time to run ... the spotlight doesn't give him that chance ... To me that's the worst thing, it blinds him and nothing, nothing is more critical than that, when an animal can't run ... You can imagine if you were in that animal's place, you know, when you have no place [to go] and you think someone is going to kill you.³¹

Treaty First Nations want the authority to protect hunting, fishing, trapping, and gathering for themselves and their future generations. Continuance of these activities – and the plants and animals necessary for them – is important to the survival of First Nations' identity, culture, medicines, and traditions. They are an essential part of the Treaty First Nations' holistic approach to life.

Further discussions are required regarding how best to address issues related to hunting, fishing, trapping, and gathering. Many of the issues to be addressed are complex. Identification and implementation of effective solutions to problems in this area will require cooperation and joint action by Treaty First Nations, the federal government, and the provincial government. Through the *Natural Resources Transfer Agreement* and the *Constitution Act, 1930*, the federal government transferred its interest in all Crown lands, mines, minerals, and the royalties derived therefrom to the Government of Saskatchewan. Thus, it is the provincial government, for the most part, which regulates and licenses hunting, fishing, trapping and

gathering, and which makes decisions on access to unoccupied Crown lands.³²

Treaty First Nations suggested that the following problems need to be addressed: the dwindling area over which such traditional livelihood activities may take place; dwindling supplies of medicinal plants, fish, and wildlife; pollution and environmental damage; lack of exposure of many Treaty First Nations to traditional activities (inadequate training of parents and youth); and competition from non-Aboriginal people (such as commercial fishing operations at the location of traditional fishing camps).

In addition to issues concerning the ongoing economic viability of traditional occupations, other issues emerge, related to the cultural viability of Treaty First Nations if hunting, fishing, trapping, and gathering are adversely affected. Restriction of access is a problem if Treaty First Nations can no longer find the plants they need for traditional medicines; if they do not have ready access to sacred sites, rocks, and wood for ceremonies; if they cannot hunt and fish in traditional ways, according to traditional laws because regulations prohibit such activities; or if they no longer have the means to transmit traditional livelihoods – a part of Treaty First Nations' identity and pride – to future generations. The overwhelming effect of these restrictions was described by Elder John James Head:

Concerning the way of life ... we begin losing our language, our relationship with the animals, and how they were able to cure people. They were able to cure cancer ... they got their medicines from the forests... [they] have all been harvested. You would think that our treaty promises could be applied here ... You would have heard the many ways the people used the wildlife and how useful they were ... These are the treaty promises that have been lost.³³

Treaty First Nations want to preserve the traditional livelihoods which they sought to protect at the time of treaty-making, according to Elder Celeste Randhill:

... the promise that was made to the people was that our way of life would not be altered ... in terms of rules and regulations being imposed on it ... that our way of life, by taking this money, would be protected.³⁴

The Government of Canada is guided by the division of powers between the federal and provincial governments as these affect hunting, fishing, trapping, and gathering activities. It looks forward to working with the Government of Saskatchewan and Treaty First Nations to address outstanding problems identified during the Exploratory Treaty Table discussions. The parties agreed that it will be important to involve the Government of Saskatchewan in any discussions regarding the management of hunting, fishing, trapping, and gathering. There are a number of topics that might benefit from further exploration by the parties:

- alternatives for involving Treaty First Nations in the management of resources on Crown lands, through the establishment of co-management regimes or through the devolution of specific responsibilities to Treaty First Nations (for example, devolution of Treaty First Nation trapline management to Treaty First Nations governments where feasible);
- establishment of priorities respecting traditional, subsistence, and commercial activities;

- establishment of measures to ensure that Treaty First Nations receive compensation, a share of revenues, or other benefits from resource development that interfere with traditional harvesting; and
- ways to integrate or harmonize traditional First Nations' laws respecting hunting, fishing, trapping, and gathering with federal and provincial legislation.

In addition, it would be useful to review the recommendations of the Royal Commission on Aboriginal Peoples respecting hunting, fishing, trapping, and gathering.³⁵

4.3 Summary Comment on Policy Implications

As this discussion has demonstrated, the policy implications of building on the Treaty First Nations' vision of the treaty relationship are varied, comprehensive, and at times, far-reaching. Historically, the approach of the Government of Canada has been one in which it designed and delivered programs and services to First Nations based on its assessment of sound social policy. For some time, the federal government has been devolving the administration – and at times the design – of these programs and services to First Nations themselves. The federal government continues to approach these matters from a social policy perspective, rather than as a result of outstanding treaty obligations. That is, Canada provides programs and services

for all First Nations, whether they have treaties or not. It is now exploring the implications of moving forward building on the treaty relationship.

Treaty First Nations wish to have responsible government, and to exercise jurisdiction rather than administer policies and programs not of their own making. Some of the policy implications identified in this section could be carried out within existing federal policy mandates. Others would require new mandates from Cabinet, while yet others would require new legislation. Almost all would require the full cooperation of the Government of Saskatchewan.

The federal government's current view is that the exercise of First Nations jurisdiction is a sound approach in many – but not all – spheres of jurisdiction.³⁶ It is the federal government's current policy that, where the province and the First Nations also agree, some of the rights contained in agreements on First Nations jurisdiction could be protected as Section 35 rights pursuant to the *Constitution Act, 1982*. It has committed to work with Treaty First Nations and the Province of Saskatchewan to achieve a stronger and more effective partnership. It is the federal government's objective to negotiate and implement practical and workable intergovernmental agreements which give meaning to Treaty First Nations' governance in Saskatchewan building on the treaty relationship.

Endnotes

¹ Data provided by Douglas E. Elliot, *Sask Trends Monitor*, preliminary estimates based on area profiles of Statistics Canada 1996 census data and Statistics Canada 1991 census data.

² Federation of Saskatchewan Indian Nations (FSIN), *Saskatchewan and Aboriginal Peoples in the 21st Century: Social, Economic and Political Changes and Challenges*, Saskatoon: FSIN, 1997, p.11.

³ Data provided by Douglas E. Elliot, *Sask Trends Monitor*, preliminary estimates based on area profiles of Statistics Canada 1996 census data and Statistics Canada 1991 census data.

⁴ Data provided by Douglas E. Elliot, *Sask Trends Monitor* based on area profiles of Statistics Canada 1996 census data.

⁵ Data provided by Douglas E. Elliot, *Sask Trends Monitor*, preliminary estimates for on-reserve employment rates based on area profiles of Statistics Canada 1996 census data; provincial employment rates based on Statistics Canada 1996 census data.

⁶ Data provided by Douglas E. Elliot, *Sask Trends Monitor*, preliminary estimates for on-reserve income levels based on area profiles of Statistics Canada 1996 census data and Statistics Canada 1991 census data; income levels for the general provincial population are based on Statistics Canada 1991 and 1996 census data.

⁷ Health Canada, "1996 Vital Statistics of the Saskatchewan Registered Indian Population",

p.36; Saskatchewan Health, "Interim Annual Report 1997: Saskatchewan Health Vital Statistics", p.4.

⁸ Health Canada, "1996 Vital Statistics of the Saskatchewan Registered Indian Population", p.51.; Saskatchewan Health, "Interim Annual Report 1997: Saskatchewan Health Vital Statistics", p.10.

⁹ FSIN, "Preliminary Views on Implementing Treaties Between the Crown and the First Nations of Saskatchewan of Treaty No. 4, 5, 6, 8, and 10", p.7.

¹⁰ Elder Norman Sunchild, *supra* note 3, p.52.

¹¹ Elder Ben Lachance, Flying Dust First Nation, proceedings of an FSIN Elders meeting at Wanuskewin Heritage Park, Saskatoon, Saskatchewan, August 7-9, 1997.

¹² Elder James Ironeagle, Pasqua First Nation, affidavit recorded at Winnipeg, June 11, 1991.

¹³ Such a choice is not unlimited, of course, and criteria such as those regarding geographic catchment area and travel cost would likely be applied.

¹⁴ This approach is described in the Section 6 of this report entitled "Treaties as a Bridge to the Future", at pp.126-132.

¹⁵ See Tough *et al.*, p.261.

¹⁶ Morris, p.213.

¹⁷ FSIN, "Preliminary Views on Implementing Treaties Between the Crown and the First Nations of Saskatchewan of Treaty No. 4, 5, 6, 8, and 10", p.8. Among the Cree, these laws are reflected in the doctrines of *Oo Neeg Gee Goo Mow Api Win* – concepts governing the parents' position as applied to family parental roles and responsibilities; and as applied to the responsibility occupied by the Cree Okimaw (ruler) for the nation. For the Cree nation, the doctrine defined the duties, obligations, and responsibilities of the nation and its families for the care and custody of children. *Wak Koo Too Win* refers to the comprehensive body of laws governing all forms of relationships, both public and private, within the nation.

¹⁸ Elder Jimmy Myo, Moosomin First Nation, at FSIN Elders meeting at Wanuskewin Heritage Park, Saskatoon, Saskatchewan, August 7-9, 1997.

¹⁹ Elder Gordon Oakes, Nekaneet First Nation, at FSIN Elders meeting at Jackfish Lake Lodge, Saskatchewan, April 30, 1997.

²⁰ FSIN, "Preliminary Views on Implementing Treaties Between the Crown and the First Nations in Saskatchewan of Treaty No. 4, 5, 6, 8, and 10", p.9. Emphasis in original document.

²¹ Treaty No. 6 in Morris, p.355. With slight variations, this wording appears in all of the num-

bered treaties in Saskatchewan (Treaties 4, 5, 6, 8 and 10).

²² See: 6 Geo. 3, c.18, (1765); 16 Geo. 3, c.15, (1775); 43 Geo. 3, c.138, (1803); 1 & 2 Geo.4, c.66 (1821); and 22 & 23 Vic. C.26, (1859).

²³ Paper on justice tabled by Canada for purposes of discussion at Canada-FSIN Exploratory Treaty Table, October 8, 1997, p.5.

²⁴ See Tough *et al.*, pp. 261, 266.

²⁵ FSIN, "Preliminary Views on Implementing Treaties Between the Crown and the First Nations of Saskatchewan of Treaty No. 4, 5, 6, 8, and 10", p.10.

²⁶ The province provides insured health services to all their residents, including members of Treaty First Nations. The federal government maintains a number of programs and services, including the Non-Insured Health Benefits Program which provides such benefits as prescription drugs, vision care, medical transportation, community health services and dental care.

²⁷ *Report of the Royal Commission on Aboriginal Peoples*, vol. 2, part one, p.53.

²⁸ Cardinal and Hildebrandt, p.8.

²⁹ Elder Simon Robillard, Black Lake First Nation, Treaty Elders' Forum, Black Lake, Saskatchewan, November 4, 1997. Translated from Dene to English.

³⁰ Elder Danny Musqua, Keeseekoose First Nation at FSIN Elders meeting at Wanuskewin Heritage Park, Saskatoon, August 7-9, 1997.

³¹ Verbatim transcript of oral presentation by Elder Danny Musqua to the Exploratory Treaty Table on December 10, 1997.

³² Treaty First Nations did not agree to this transfer, repeatedly asking where the federal government received the authority to do so. On a separate but related matter, it should also be noted that the Supreme Court of Canada decisions in *Sparrow* and *Badger* have outlined the importance of respecting Aboriginal and treaty rights, and have outlined standards to be met before these rights have been infringed by government. This also points to the importance of consultations with Aboriginal peoples in this area.

³³ Elder John James Head, Red Earth First Nation, Treaty Elders' Forum, Nipawin, Saskatchewan, October 9, 1997. Translated from Cree to English.

³⁴ Elder Celeste Randhill, Fond du Lac Denesuline Nation, Treaty Elders' Forum, Nekaneet Recreation Centre, Saskatchewan, May 22-24, 1997. Translated from Dene to English.

³⁵ These recommendations may be found in the *Report of the Royal Commission on Aboriginal Peoples*, vol. 2, "Restructuring the Relationship", part 2, pp.652 and 658.

5. Common Understandings About the Treaty Relationship

The previous two sections of this report presented the findings which emerged from the discussions at the Exploratory Treaty Table. One section examined Treaty First Nations' understanding of the nature of the treaty relationship in broad terms of nature, purpose and objectives. The next section examined particular understandings in seven discrete subject areas. Based on this exploration, is there sufficient common ground for continuing with this work? In responding to this question, the parties tried to identify where they shared common understandings about the treaty relationship. Before exploring these common understandings, however, it is necessary to briefly address the "spirit and intent" and the text of the treaties.

5.1 Oral and Written Accounts of the Treaties

The treaties were presented in written text as a method of documenting the exchange of promises. This text, which was prepared by Canada, is the expression of its understanding at the time of treaty-making. For First Nations, the oral history of the "spirit and intent" of treaties is a significant method of recording the treaty-making process. Treaty elders repeatedly submitted that the treaty text does not conform to what they know by way of their oral histories. As Senator Allan Bird put it:

... when treaty first happened ... the Indian did not use any written word. But Alexander Morris brought papers, written documents to us. ... but for those of us that are Aboriginal, we don't depend on the written word much. We still depend on oral tradition.¹

Nearly 125 years after the conclusion of the first of the five treaties (Treaty 4 in 1874), there was a clear need to formally discuss the treaty relationship in a broad sense before any detailed discussions could be held on specific treaty issues. This discussion was all the more important because while the written texts of the treaties have been taken by the Government

of Canada to represent definitively the agreements of the parties, the FSIN and Treaty Elders have long maintained that the written texts are only one source of information about treaty-making, the treaties, and the treaty relationship. These differences in approach have led to differences in understanding that have not been conducive to good relations.

Canada and the FSIN both approached the exploratory discussions with a commitment to consider all sources of information about the treaties. As a result, meaningful discussions were held regarding the treaty relationship, and a consensus was reached on some of the basic principles which guide and inform this relationship. Despite their history of relying on different sources for information about the treaties, the parties at the Exploratory Treaty Table found that there was considerable common ground regarding their understanding of the nature of the treaties negotiated between Canada and the Treaty First Nations of Saskatchewan. Key principles emerged which underlie each of the five treaties in Saskatchewan. These principles of the treaty relationship are found in bolded text later in this section of the report.

5.2 Building on the Treaty Relationship

5.2.1 Treaty First Nations' Perspective

For Treaty First Nations in Saskatchewan, the historical basis of the rights of the newcomers arise from treaties made with First Nations. The terms of those treaties define the mutual rights and responsibilities of both parties, and establish a political relationship between the First Nations and the Crown. From the perspective of Treaty First Nations, the rights of European newcomers in what is now the province of Saskatchewan – such as rights to the use of lands and resources – stem not from the “doctrine of discovery” or other European legal precepts, but rather from the treaties and the treaty relationship.²

Treaty First Nations view treaties as more than agreements between governments: they are nation-to-nation agreements between the Crown and the Cree, Assiniboine, Saulteaux, and Dene in present-day Saskatchewan. The status of these agreements is reflected in the diplomatic traditions practised at the time of treaty-making, through the use of sacred songs and ceremonies, the sacred pipe, drums and sweetgrass. Treaties have a spiritual foundation. Through ceremonies, symbols and songs, Treaty First Nations made a solemn commitment to uphold the terms of the treaty for “as long as the sun shines, the grass grows and the rivers flow.”

Although Treaty First Nations believe that treaties cannot be dissolved, changed or altered, they view treaties as living agreements, to be honoured in their “spirit and intent” and in a contemporary context. Treaty First Nations drew upon family relationships to describe their relationship to the Crown. For them, family relationships by their very nature are enduring, and yet grow and change over time. So, too, would relations between Treaty First Nations and the Crown, requiring adjustments and renewal with each succeeding generation of children.

5.2.2 Perspective of the Government of Canada

The earliest treaties in North America between the imperial powers and First Peoples related to trade and commerce, law, peace and military alliance. For example, the Two Row Wampum of the Iroquois recorded a treaty between the Mohawks and the Dutch colonists in 1613, in which the Mohawks agreed to peace, friendship, respect and non-interference.³ New France established economic and military alliances with the Innu, Algonquin and Huron on

which to build a fur trade that would benefit all parties. Only in the latter period of the French regime, when the fur trade moved further west, did European states consider the large-scale settlement of what is now Canada.

It was during the period of British expansionism, as evidenced by the provisions of the *Royal Proclamation of 1763*, that settlement and access to lands and resources for newcomers became a prime subject for treaty negotiations. As settlement moved ever westward, through Ontario to the prairie region, the policy of the Crown was to negotiate treaties as land was required for settlement. The numbered treaties, from the Crown's perspective, were to obtain from First Nations a "surrender" of large tracts of land and to "establish friendly relations" with the Indians in return for promises of aid in respect of education, farming, hunting, medicine, annual cash payments and other matters.⁴

Although Canada recognized that certain rights were protected in the treaties, for many years it has relied on the *Indian Act* to form the basis of its relations with First Nations. In the last twenty-five years, constitutional amendments, Supreme Court decisions, the *Report of the Royal Commission on Aboriginal Peoples*, and changes in government policy have begun to move Canadians away from this approach. Governments are now open to exploring new options. As Indian Affairs Minister Jane Stewart said in a recent speech launching the federal government's response to the Royal Commission's report:

Today we are here to say that we have listened and we have heard. The time has come to state formally that the days of paternalism and disrespect are behind us and that we are committed to changing the nature of the relationship between Aboriginal and non-Aboriginal people in Canada.⁵

5.2.3 Common Ground

Although differences exist with respect to the interpretation of treaties between First Nations and the Crown, there is also common ground upon which to build. It is apparent that the Crown adapted to First Nations' protocols and diplomacy in North America with respect to treaty-making. In negotiating Treaty 4, Commissioner Morris offered the First Nations that their Great Mother the Queen would see that their needs were met and that they would benefit from the treaties with the Queen. He, and Commissioners who preceded and followed him, often spoke of their First Nation counterparts as "brothers," drawing on the family relationships model which First Nations also used in their treaty discussions. The Crown also acknowledged the solemn nature of the treaties, noting that nothing less than the "honour of the Crown" was at stake, and ensuring that missionaries were present at the negotiations as witnesses to the promises that were to be kept.

This common ground is acknowledged by the treaty partners. As the Federation of Saskatchewan Indian Nations stated in its preliminary views:

Treaties provided us with a shared future, treaties prevented war and guaranteed peace, treaties defined and shaped relations between nations through enduring relations of mutual respect, and treaties guaranteed the shared economic bounty of one of this planet's richest and most productive lands.⁶

Likewise, in its preliminary views, the Government of Canada stated:

The federal government understands that the treaties between Canada and First Nations were intended by the parties to endure into the future. It recognizes that treaties define fundamental aspects of the continuing relationship between Canada and Treaty First Nations and that they are important instruments guiding the way to a shared future for First Nations and other Canadians. The federal government recognizes that, by doing justice to the treaties, it may honour the past and enrich the future.⁷

It is clear that both parties wanted to make treaties to secure their respective political and economic objectives. Both sides saw tangible rewards flowing from the treaties and each side worked to secure the terms and conditions in the treaty which would benefit their people. Both parties pledged to honour and uphold the terms of the treaties, and regarded them as sacred and binding pacts.

5.3 Identifying Common Understandings

The parties organized their submissions around three general aspects of treaties: the treaty-making process, the purpose of treaty-making, and the treaty relationship in the future. This section of the report will review the common understandings of the parties in relation to all three of these aspects of treaties, and provide a summary of the understandings of Canada and the FSIN regarding the treaty relationship. A summary of the parties' understandings of the relationship is crucial because it will help to inform the discussions of appropriate processes for the renewal and revitalization of the treaty relationship.

In this part, we attempt to describe areas of agreement in the views of the parties as they relate to the treaty-making process, the nature of the agreements, and the relationships created through treaty-making. These common understandings are bolded in the texts of the next subsections, and in the conclusion of this report.

5.3.1 The Treaty-making Process

Treaty-making incorporated the customs of the respective parties and created a fundamental political relationship between Treaty First Nations and the Crown. Treaties gave shape to this relationship, creating obligations and expectations on both sides. The concept of entering into agreements was not new to First Nations; they had a clear understanding of the process of entering into agreements and of the purpose of such agreements, as described by Elder Danny Musqua:

...The treaties were our agreements – *wechezichikewinis* ... And the old people had a word for that a helping agreement – *wechizichikewina* ... or helping system – *apichichikan* ... *Apichichikewina*, means the use, and the uses of what was going to come out of those agreements ... All of the agreements they have had between one another as people and as nations, were always based on use. On how they were going to use the land. ...we had agreements between First Nations, hunting territories that we shared, trapping lands that we shared, gathering lands that we shared, medicinal lands that we shared, “co-opted” peace territorial lands that we designated for shelter and safety for our people. ...That’s how they set out things between one another. They

understood use, they understood the means by which land was used.⁸

The treaty-making process between the parties involved the exchange of solemn promises, based on respect for the spiritual and traditional values of the other. The Crown and Treaty First Nations entered into the agreements freely and of their own accord as the best possible means of advancing their respective interests. Generally, oral history of First Nations supports the view that no element of undue influence or duress was used to influence the First Nations to enter into treaties with the Crown:

The sweetgrass used in the ceremony represented an undertaking between the parties that their relationship would be governed and conducted according to the principles symbolized by the sweet grass and the pipe. These included [among others] the principles of gentleness - *Use Pat Sowin*; kindness - *Kis ee Wat Tis Sowin*; honesty - *Kwi Ask At Sowin*; cleanliness - *Kan ats Sowin*. All representing an undertaking that the relationship between the parties would be non-coercive.⁹

The act of treaty-making was also indicative of mutual recognition of the authority vested in the Treaty Commissioners on behalf of the Crown and in the Chiefs and headmen on behalf of their First Nations to enter into treaties. Treaty First Nations chose to enter into a treaty relationship in which chiefs and headmen assumed that they would retain authority in areas key to maintaining their ways of life. **In entering into these agreements, both the representatives of the Crown and those of Treaty First Nations recognized each others' authority and their capacity to enter into treaties on behalf of their respective people.** In this sense, they have been described as nation-to-nation agreements.¹⁰

Canada and Treaty First Nations agreed to arrangements which would respect the continuance of traditional ways of living by Treaty First Nations, and prepare First Nations to participate in the new economies should they wish to do so. Treaty First Nations expected to retain significant autonomy in their internal affairs, and to discuss any future changes in their treaty relationship with the Crown.¹¹

Much has changed since the first days of treaty-making with the British Crown. In 1867, the British colonies formed the Canadian federation, dividing the former unitary British Crown into federal and provincial Crowns. Jurisdiction is now divided between the federal Crown and what are now ten provincial Crowns. In terms of treaty implementation, this means that the provincial government is now part of the relationship in its fields of jurisdiction. We explore the implications of this change in the next section of this report, entitled "Treaties as a Bridge to the Future".

To understand the nature of their political relationship with the Crown, Treaty First Nations relied upon their experience with family relationships. Using this model, they viewed their relationship with the newcomers as one of both autonomy and interdependence, of close friendship, with assistance provided when needed. In entering into treaties, First Nations saw themselves as expanding the circle to include the Queen's family. They accepted the Queen as a mother and would undertake to live in peace and harmony with her other children.

The treaty-making process between the Crown and the First Nations created a unique, formal relationship between the parties. It resulted in the formation and affirmation of fundamental principles that would guide formal relations between the parties. **One of those fundamental treaty principles is the acknowledgment by the treaty parties of the solemnity of**

the treaties. This was shown by the pipe ceremonies conducted by the First Nations in which the Crown's representatives participated.¹² For First Nations, the pipe ceremonies signify the level of commitment between the parties to establish and maintain a lasting and solemn relationship of peace. First Nations placed great significance in the Crown's participation in the pipe ceremony, and view this participation as an acknowledgment of the solemnity of the proceedings, as explained by Elder George Cannepotato:

...there was no writing or understanding of documents among the Indian people long time ago. They were only able to sign by the cross, by writing an "x". But in our way we made those commitments through and in the name of and in the force of the pipe stem. And it was the pipe stem that the chiefs had Alexander Morris hold who came as the representative. That is our solemn way of doing promises and the Crown then reduced it in writing onto parchment.¹³

The Treaty Commissioner Lieutenant-Governor Alexander Morris' own words at the conclusion of Treaty 6 at Fort Carlton on August 18, 1876, also support the notion that the treaty relationship forged between the parties was forever:

... What I trust and hope and will do is not for to-day or to-morrow only; what I will promise, and what I believe and hope you will take, is to last as long as that sun shines and yonder river flows.¹⁴

Elder Norman Sunchild recalled the sacred nature of the treaty based on his knowledge of oral history:

... when they finally agreed to the terms of the Treaty, the Commissioner took the promises in his hand and raised them to the skies embodying the Treaties in the name of the Great Spirit. The treaties are therefore Sacred and they cannot be changed.¹⁵

The treaty-making process contains within it the **treaty principle of maintaining the honour of the Crown and the honour of Treaty First Nations in maintaining the treaty relationship.** The respective moral and legal codes of the parties dictated that agreements made between the parties should be honoured. The parties have a mutual responsibility to maintain the treaty relationship. There was a common understanding that there would be strict adherence and observation of the treaty promises. **Equally important was the conduct and behaviour of the parties to honour and respect the commitments made in the treaties.** According to the late Senator John B. Tootoosis:

In our Cree way our promises were made with the Creator that we would never break that oath. This was our way and it was just as binding as the oath the white men took in the name of the Queen.¹⁶

Chiefs and Headmen accepted the responsibility for Treaty First Nations' adherence and respect for the treaties with the Crown as is indicated by the Treaty Commissioner, Alexander Morris. After Treaty 4 was concluded, Chiefs Loud Voice and Cote assured the Treaty Commissioner that "they would teach their people to respect the treaty."¹⁷ The First Nations of Saskatchewan have been consistent in their actions to protect and promote treaty relations

and treaty rights.

5.3.2 The Purpose of Treaty-making

A common understanding among the First Nations in Saskatchewan is the use of the Circle to represent the coming together of a Nation, and the respect that such unification demonstrates for the Creator. The Circle represents the oneness of the First Nations with the Creator. The circular structure of the ceremonial lodges and the encampments surrounding the lodges reinforced the importance of the unity of the First Nations at all levels of organization and in all aspects of activities. First Nations believe that a people united under the laws of the Creator represents a healthy, strong, stable nation, possessing the capacity to nurture, protect, care for, and heal its citizens. This understanding is rooted in the fundamental laws of First Nations. For example, the Cree term that captures this concept is known as *Wah Koooh toowin*. This concept sets out the importance of kinship and the laws concerning *Meyo Weecheh towin* or good relations. *Wah Koooh toowin* defines the laws of how First Nations people relate to one another, and how obligations and responsibilities are identified. *Meyo Weecheh towin* relates to the importance of recreating, nourishing, and reaffirming relationships as a means of strengthening unity within the family unit, among the First Nations citizens, and throughout the nation itself.¹⁸

The First Nations entered into treaties with the Crown for the purpose of creating perpetual relations similar in kind to familial relations which are based on mutual respect. By entering into treaties, First Nations would come within the circle of the Queen's family. They would come within her authority and protection and be treated with benevolence, care, kindness and respect. They would be as brothers and sisters with the other children of the Queen, and receive the same care.

The basis of the familial relationship consists of mutual, ongoing caring and sharing arrangements between family members. Upon a closer examination of the relationships between the Europeans and the First Nations at the time of treaty-making, it is apparent that First Nations referred to or identified the Europeans in family terms. It is these terms and their meaning that guide the parties in reaching common understandings of the nature of the relationship that was created. According to Simon and Alma Kytwayhat,

When our cousins, the Whiteman, first came to peacefully live on these lands (*wetaske matchik*) with the Indigenous people, as far as I can remember, Elders have referred to them as *Kitchiwamnowuk* (our first cousins). It was a traditional adoption in itself. [Elders] used the pipe, sweetgrass, and the pipe stem. They used those to raise their children with. And they also used those for their prayers and for thankfulness. They thought a lot of the stone pipe and the pipe stem. And when they took the traditional adoption with the Whiteman, they used the pipe and they shared the pipe with them from there they adopted a peaceful co-existence (*Wi Taski Win*). I have heard [from Elders] that the Queen came to offer a traditional adoption of us as our mother. You will be my children, she had said. And at the time of treaty, there the elders spoke of accepting the benevolence [of Her Majesty].¹⁹

The Elders describe *Wah Koooh toowin*, the familial relationship which is embodied in the treaty relationship, as containing three characteristics. First, the principle of mutual respect,

and the duty of nurturing and caring describes the kind of relationship that would exist between mother and child. The very nature of the relationship between mother and child is forever and can never be broken. Respect for the authority of the parent is required as is on-going nurturing and care by the parent if this relationship is to be sustained and continue as a healthy and strong relationship.²⁰ Second, the principle of non-interference describes the relationship of brothers. The nature of this type of relationship is close yet independent. Intrinsic in this relationship is the recognition that different households exercise autonomy and authority to govern themselves within the circle created by family and community. Third, the principle of non-coercion, happiness, and respect describes the relationship of cousins.²¹

The relationship to the Queen as “mother” is not a new one. In the days of the British empire, the colonial governments and colonial residents looked to the Queen as the mother of all her subjects. Based on the oral history of Treaty First Nations, it would appear that both Treaty First Nations and the colonists looked to the Queen as mother. From the perspective of the British Crown, both Treaty First Nations and colonists would undertake to ensure peace and order among her children, and both would undertake responsibilities related to the maintenance and well-being of her children. They would respect each other and each other’s ways, and help each other in times of pestilence and famine. They would cooperate and together develop mutually beneficial, practical arrangements.

The treaties were to provide for peace and good order between the parties, and among the First Nations. The peace and good order clause in the Treaties establishes that the chiefs will faithfully perform the obligations assumed by them in the treaties.²² The peace and good order clause clearly intended to contribute to the physical security and economic well-being of both parties.

There are several important elements of the treaty relationship which demonstrate that it was the intention of the parties that the treaties be mutually beneficial. The treaty relationship clearly created mutual obligations at the time of the agreements, and established a relationship of mutual protection between the parties. **The treaty-making process was a means to build lasting and meaningful alliances between the parties that would foster the future well-being of the people they represented.**

The treaties were foundational agreements that were entered into for the purpose of providing the parties with the means of achieving survival and stability, anchored on the principle of mutual benefit.²³ These arrangements would in turn make possible a continuing means of livelihood for the citizens represented by the parties. **The relationship between the Treaty First Nations and the Crown is one in which the parties have both benefits and responsibilities with respect to one another. The Treaties created mutual obligations that were to be respected by the parties.** Treaty-making established a basis for mutual benefit, and provided for the security, peace and good order of all citizens within the treaty territory.

5.3.3 The Treaty Relationship in the Future

In addition to forming the foundation for lasting relationships of mutual respect, the treaties were also seen as instruments that facilitated the mutual exchange of benefits and promises for the future. Elder Norman Sunchild described this exchange as follows:

The exchange of benefits and the mutual promises made with each other for friendship and the treating with each other is what you call Treaties today. ...And what kind[s] of

relationship were created as a result of these promises. It was a mutual life-giving relationship and all the promises that the elders concluded. And then the elders symbolically, put all these Treaty promises under Her Majesty's Crown. It is at that point where it was understood that no person with two legs can change the Treaty ...²⁴

Morris, the Crown's representative, spoke in terms of the far-reaching effects which the treaties would have on future generations:

... What I have to talk about concerns you, your children and their children, who are yet unborn, and you must think well over it, as the Queen has thought well over it. What I want is for you to take the Queen's hand, through mine, and shake hands with her for ever... ²⁵

Treaty First Nations also spoke to the lasting effects of the treaties, and to their view that treaties should last forever. Elder Gordon Oakes addressed this issue as follows:

They decided that the treaties would last so long as the sun continues to travel, so long as the rivers would flow, so long as the grass shall grow, that the treaties would last for that period of time and that was the treaty agreement. There are children still not yet born, they too shall live under the treaties, the elders had said... ²⁶

The unique treaty relationship established by the historical treaties in Saskatchewan provides the basis for a positive, forward-looking relationship between the Crown and Saskatchewan Treaty First Nations. While many of the common understandings which we have examined relate to the substance of the treaty relationship, others have more to do with the process of how we relate to each other, and with the conduct of relations.

In looking to the future, the parties have now agreed to rely upon the following principles to guide their conduct:

- **The treaty relationship is one in which the parties expect to resolve differences through mutual discussion and decision.**
- **The parties share a common commitment to reinvigorate the treaty relationship, and to build on a partnership that can address the well-being of both parties in a respectful and supportive way.**
- **Canada and Treaty First Nations can enter into arrangements whereby Treaty First Nations exercise jurisdiction and governance over their lands and people, building upon the foundation of their treaty relationship with Canada. These agreements should not alter the treaties; rather, they should implement the treaty partnership in a contemporary way while respecting the principles of treaty-making.**
- **The parties recognize that the participation of the Government of Saskatchewan is required for there to be significant progress on the implementation of Treaty First Nations' jurisdiction and governance within Saskatchewan, and they believe that the principles of the treaty relationship are beneficial for all people in**

Endnotes

¹ Senator Allen Bird, Montreal Lake First Nation, Treaty Elders' Forum, La Ronge, Saskatchewan, November 27, 1998.

² For an expanded discussion of this subject, see *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, pp.119-132, and vol. 2, Part One, pp.184-213.

³ Onondaga scholar Oren Lyons in the Royal Commission on Aboriginal Peoples transcripts, Akwesasne, Ontario, May 3, 1993.

⁴ Statements made at the time of treaties indicate that a concern for the welfare of First Nations was one of the motives of the Crown as well as its interest in acquiring title to land. See Morris, pp.105, 200-202.

⁵ Notes for an Address by the Honourable Jane Stewart, Minister of Indian Affairs and Northern Development, on the occasion of the unveiling of "Gathering Strength – Canada's Aboriginal Action Plan", January 7, 1998, Ottawa, p. 2.

⁶ FSIN, "Preliminary Views on Implementing Treaties Between the Crown and the First Nations in Saskatchewan of Treaty No. 4, 5, 6, 8 and 10", p. 16.

⁷ Canada, "Preliminary Views on Treaties and the Treaty Relationship", p. 4.

⁸ Elder Danny Musqua, *supra* note 51, p.55.

⁹ Cardinal and Hildebrandt, pp.32-33.

¹⁰ *Report of the Royal Commission on Aboriginal Peoples*, vol.1, p.128 and vol.2, part one, pp.18-22; see also Brian Slattery, "Understanding Aboriginal Rights", *The Canadian Bar Review*, vol.66, 1987, p.753.

¹¹ For example, future changes to the treaty relationship, such as the selection of reserve lands, were left for further discussion.

¹² Cardinal and Hildebrandt, pp.32-34.

¹³ Elder George Cannepotato, Onion Lake First Nation, Treaty Elders' Forum, Jackfish Lake Lodge, Saskatchewan, November 12-14, 1997.

¹⁴ Morris, p.202.

¹⁵ Elder Norman Sunchild, *supra* note 3, p.52.

¹⁶ Sluman, Norma and Jean Goodwill, *John Tootoosis: Biography of a Cree Leader*, Ottawa: Golden Dog Press, 1982, p. 12.

¹⁷ Morris, p.83.

¹⁸ Cardinal and Hildebrandt, p.37.

¹⁹ Elders Simon and Alma Kytwayhat, *supra* notes 8 and 9, p.52.

²⁰ It should be kept in mind that Treaty First Nations also respected the independence of the child, encouraging children to explore the world and intervening in this process of discovery as little as possible. See Rupert Ross, *Dancing with a Ghost: Exploring Indian Reality*, Toronto: Reed Books Canada, 1992.

²¹ Cardinal and Hildebrandt, p.37.

²² Henderson, James [sakej] Youngblood, "Indian Justice and Punishment Clause of Victorian Treaties in Constitutional Law of Canada", *Justice as Healing, A Newsletter on Aboriginal Concepts of Justice*, vol. 2, no. 1 (Spring, 1997), Native Law Centre.

²³ *Report of the Royal Commission on Aboriginal Peoples*, vol.1, pp.174-176; vol.2, part one, pp.38-42. See also Slattery, pp.736, 754.

²⁴ Elder Norman Sunchild, *supra* note 3, p.52.

²⁵ Morris, p.90.

²⁶ Elder Gordon Oakes, Nekaneet First Nation, Treaty Elders' Forum, Nekaneet Recreation Centre, Saskatchewan, May 22-24, 1997.

6. Treaties as a Bridge to the Future

Discussions between Canada and the Treaty First Nations of Saskatchewan pointed to a future approach based on the treaty relationship, which would build on the common understandings that the parties developed during the course of their exploratory discussions. This approach would focus on strengthening relations between the parties based upon the relationship of good neighbours, and address the needs of the parties in the areas of livelihood and governance. This paradigm shift would move the parties to a relationship-focussed dialogue, reflecting a broader commitment by the parties to the treaty relationship. In this section of the *Statement of Treaty Issues*, we explore how the historic treaties in Saskatchewan can be viewed as a bridge to future relations between Treaty First Nations and the federal and provincial governments.

6.1 A Vision for the Future – Building on the Treaty Relationship

A vision for the future does emerge from the Exploratory Treaty Table discussions, one which all parties appear to endorse. First Nations in Saskatchewan have outlined their vision for the future, one that builds on the treaty relationship:

It is now our duty in this honourable process [the Exploratory Treaty Table process] to put these relationships into proper perspective and in a definitive way. We must build upon and accentuate the positive treaty principles which will serve as our guiding light.¹

This vision is shared by the Government of Canada in its recent policy statement, “Gathering Strength – Canada’s Aboriginal Action Plan”:

In moving forward, the federal government believes that treaties, and the relationship they represent, can guide the way to a shared future. The continuing treaty relationship

provides a context of mutual rights and responsibilities which will ensure that Aboriginal and non-Aboriginal people can together enjoy the benefits of this great land.²

The Government of Saskatchewan also shares this vision. Premier Roy Romanow expressed a commitment, on behalf of the Government of Saskatchewan, to honouring the treaties and the relationship that they created:

The Government of Saskatchewan is committed to the principle and acknowledges the principle of inherent self-government and is committed to honouring the treaties and committed to honouring the traditional, constitutional and historic rights which are set out in your treaties and are so set out in the Constitution of Canada.³

In the view of Treaty First Nations, treaties are binding agreements under which they agreed to share their jurisdiction. In some fields, such as child care, First Nations assert that they retained exclusive jurisdiction through the treaty process. In other areas, such as caring for the land, they say that they agreed at the time of treaty-making to share their jurisdiction. In yet other areas, through the treaty negotiations they accepted never to use a particular power for as long as the treaty lasts (for example, the commitment to peace prevents First Nations from using the power to make war, a concession sought by the Crown at the time of treaty-making). The Government of Canada also sees a bridge to future self-government in the treaty relationship:

The Government of Canada is prepared to work in partnership with Treaty First Nations to achieve self-government within the context of the treaty relationship. For example, the Government of Canada, the Federation of Saskatchewan Indian Nations, and the Province of Saskatchewan are currently engaged in a process which links discussions on the historic treaties with governance, jurisdictional and fiscal negotiations. We are optimistic that this forward-looking and integrated approach will lead to strong governments.⁴

This is a theme which Treaty Elders spoke of often during the exploratory discussions. As Elder Jonas Lariviere put it,

I think we should simply be partners and be together side by side. Too often we walk on separate roads... We can reconcile back into friendship and try to see how our people can live harmoniously together.⁵

The implementation of a new paradigm – one based on the treaty partnership rather than the *Indian Act* – would require a new approach on the part of the federal government. The jurisdiction of Treaty First Nations governments should be based on inherent rights of governance building on the treaty relationship, rather than on the *Indian Act*. The parties wish to negotiate practical and workable inter-governmental agreements. In turning the page on past federal policy with respect to Aboriginal peoples and renewing the partnership, Minister of Indian Affairs and Northern Development Jane Stewart spoke in the following terms:

The Royal Commission challenged us to construct relationships between Aboriginal and non-Aboriginal people characterized by mutual respect and recognition, responsibility and sharing. This is the basis of the partnership we seek.⁶

Mutual recognition suggests that treaties remain the most fully appropriate, albeit not the only vehicle by which to implement the treaty partnership. It further suggests that Treaty First Nations themselves determine who should represent them.

The federal government has acknowledged that many of its former policies have been very harmful to the First Nations with whom it entered into treaty. This is reflected in the “Statement of Reconciliation” offered in January of this year:

We must recognize the impact of these actions on the once self-sustaining nations that were disaggregated, disrupted, limited, or even destroyed by the dispossession of traditional territory, by the relocation of Aboriginal people, and by some provisions of the *Indian Act*. We must acknowledge that the result of these actions was the erosion of the political, economic and social systems of Aboriginal people and nations.⁷

If the new paradigm is turning the page on the *Indian Act* approach – to one of relations with Treaty First Nations building on the treaty relationship – it suggests that Treaty First Nations may wish to reconsider how they are organized politically. *Indian Act* bands, created by the federal government during an earlier era, may not be the appropriate building blocks for First Nations in a treaty partnership. Treaty First Nations will need to examine whether their existing government structures are in keeping with the treaty partnership, or whether they need to consider new (or renewed) government structures as they look to the future.

6.2 Public Respect for the Treaty Relationship

The success of this new approach to relations between the Crown and Treaty First Nations in Saskatchewan will require a foundation of broad acceptance and support within both Treaty First Nations and other communities. A climate of acceptance and support for new processes and institutions can only be created and maintained by fostering broadly-based, ongoing public education.

6.2.1 Building a More Knowledgeable and Respectful Community

If relations between Treaty First Nations and other residents of Saskatchewan are to be harmonious, all people of Saskatchewan will need to be made aware of the history of relations between the Treaty First Nations and other people of Saskatchewan. To this end, it is important that an accurate and comprehensive record of this history be developed and effectively communicated to the people of Saskatchewan. Knowledge is a necessary precursor to mutual respect. In order to gain respect for each other, Treaty First Nations and others need to be more informed about the traditions, customs, ceremonies, values, institutions, and laws of each other. Although their traditions and cultures are different, they should be treated with equal respect by the governments and people of Canada. This is consistent with a tradition of the Saskatchewan people – one of valuing and being enriched by their cultural diversity.

Public attitudes of mutual respect would lead us to examine our public institutions, practices and symbols to ensure that they embody the basic esteem and consideration that are owed

to First Nations' languages and cultures. As the Royal Commission concluded:

Respect for the unique position of Canada's First Peoples – and more generally for the diversity of peoples and cultures making up this country – *should* be a fundamental characteristic of Canada's civic ethos.⁸

The people of Saskatchewan can benefit from learning more about the historical events associated with the making of the treaties as they reveal the mutual benefits and responsibilities of the parties. There is ample evidence that many people are misinformed about the history of the Canada-Treaty First Nations relations, and about the consequent experiences of Treaty First Nations communities and individuals. Until recently, the perspective of many Canadians has been to view treaties as remnants of antiquity, with little relevance to the present. Treaties were seen as frozen in time, part of Canada's ancient history. Some no doubt still hold this view of treaties as primarily "real estate transactions" modelled on business contracts and British common law. Non-Aboriginal Canadians forgot that they, too, gained rights through treaty – rights to the rich lands and resources from which they have benefitted greatly. They also forgot about the partnership formed at the time of treaty-making. The benefits of the treaties were to be mutual, assisting both parties. The wealth generated from these lands and resources has provided little benefit to Treaty First Nations.

To acknowledge and to understand the errors of the past is the first step toward joint undertakings and collective responsibility for the change and healing that is needed to restore the treaty relationship. As part of this undertaking, people need to become better informed about the role of the treaties, and their contribution to the creation of Canada and to the well-being of today's generations of Saskatchewan citizens. As Elder Jimmy Myo said at the Exploratory Treaty Table:

We have to think of some way to be able to communicate and teach our public about the Indian and the white people. We have a start, but there [are] people here that don't have any understanding. Those are the people that we have to try to make understand what we are doing is one of the best things...treaties [are] not only for the Indians to benefit. The white people are going to benefit out of that too.⁹

The implementation of a forward-looking treaty relationship will require much more than the establishment of a more accurate and comprehensive historical record. The people of Saskatchewan need to see actions taken to renew the treaty relationship as solemn commitments based upon a rededication of the parties to a relationship based upon fair dealing, trust, and respect. People need to understand the nature of the rights and responsibilities of both treaty partners and the enduring nature of these commitments.

Mutual respect is necessary at the individual level, but it is important as well at the public or official level. If respect is publicly shown at the official level, it is more likely to be demonstrated at the individual level. Public acknowledgement of mutual respect should be reflected in government policies, programs, school curricula and institutions. The *Report of the Royal Commission on Aboriginal Peoples* noted some of the consequences of not having public or official expressions of mutual respect:

Where a public attitude of cultural disrespect prevails, cultural difference is often

seen simply as a deficiency or disability. The child who enters an English- or French-language school speaking only an Aboriginal language may be treated as “backward” or deficient in language skills. The Aboriginal worker who engages in seasonal hunting to help provide food for his extended family is considered “unreliable” or delinquent. Such attitudes erode a person’s sense of self-worth and discourage a commitment to education or employment; in the long run, they may even encourage dependency and self-abuse. If these results are seen as confirming the original assessment, the vicious circle is complete.¹⁰

In such situations, criticism replaces dialogue, and intolerance and racism may escalate. Mutual respect at the collective level is related to self-respect at the individual level.

Elders at the Exploratory Treaty Table and the Treaty Elders’ Forums also spoke of the importance of symbols in the development of public respect. In the words of Elder Joe Stick:

We should have a lot of respect for the Union Jack That is the flag that was signed with our sacred stem, our pipe, [for] as long as the sun shines, grass grows, and rivers flow, that was what was promised to us They wrote the “x” on behalf of the pipe, the pipe was there to look after them, the pipe was sacred to the Queen when she signed, her representatives, signed the treaty. Let’s respect the other side. Let’s respect the treaty Let’s respect each other.¹¹

6.2.2 Public Acts of Renewal

To clearly identify the change in relations between Treaty First Nations and other people in Saskatchewan, symbolic acts of reconciliation and recognition will be needed. The message must be clear – that the treaty relationship will not go unacknowledged in the future. Respect for the treaties, regret for past errors, and commitment to a renewed relationship must be strongly communicated to both the First Nations and non-First Nations people.

Symbolic acts to commemorate and celebrate the treaties are an important part of honouring the treaty relationship. In this area there is much that can be done. In this regard, consideration should be given to a number of actions which could be taken to commemorate and celebrate the historic treaties. The federal and provincial governments and the FSIN should consider:

- placing monuments at the various sites of treaty-making; and exploring the identification, designation, and protection of Treaty and related historic sites;
- identifying both First Nations language and English names for geographic features, providing explanations of the meaning and sources for both names. (This could be combined with an initiative to restore First Nation names to some sites, in order to help introduce more balance in this very visible area.);
- annual treaty gatherings to discuss treaty issues;
- jointly celebrating the anniversaries of all treaties in Saskatchewan, including the 100th anniversary of Treaty 8 and the 125th anniversary of Treaty 4 in 1999;
- delivering programs on treaties in schools and at historic sites and museums;

- exploring the reissuance of treaty suits, treaty medals and treaty flags;
- supporting a program of sponsorship of publications and research on treaties and the treaty relationship;
- initiating a program of essay and poster contests, together with the issuance of posters and pamphlets on special days, such as National Aboriginal Day (June 21st) and the International Day of the World's Indigenous People (August 9th); and
- proclaiming a Treaty Awareness Day.

6.3 The Process of the Evolving Treaty Relationship

The process of the evolving treaty partnership in Saskatchewan presently consists of several forums referred to as “tables”; these include the Exploratory Treaty Table, the Common Table, the Fiscal Relations Table and the Governance Table. Together, these processes will provide the basis for comprehensive discussions on Treaty First Nations governance and jurisdiction in Saskatchewan.

The Office of the Treaty Commissioner is not currently involved in the Common Table, Fiscal Relations Table, or Governance Table discussions, but has received reports on their progress. The parties at the Exploratory Treaty Table recognize the need for a coordinated and integrated process to implement Treaty First Nations' governance and jurisdictional arrangements within the treaty relationship. The Exploratory Treaty Table, the Common Table, the Fiscal Relations Table and the Governance Table are all vital elements of an effective integrated process.

6.3.1 Exploratory Treaty Table

When the Office of the Treaty Commissioner was renewed in October 1996, the parties agreed to enter into political and technical discussions on treaty rights and First Nations' government jurisdiction and/or authority. One of their objectives was to gain a better understanding of their respective views and make progress on resolving disagreements over the existence and scope of treaty rights. They agreed to carry out those discussions in good faith, sincerity and mutual respect. The purpose of the Exploratory Treaty Table was to:

- enter discussions on a range of treaty issues;
- promote efficient, effective and orderly discussions;
- exchange information, views, and positions between the parties;
- support the development of common understandings as to treaty rights in respect of seven treaty issues; and
- produce a Statement of Treaty Issues, prepared by the Treaty Commissioner, based on the discussions between the parties.

As discussions proceeded, it became increasingly apparent to the parties that the program area or jurisdictional approach to treaties reflected in the workplan was being replaced by a

more holistic approach, emerging from the Exploratory Treaty Table discussions. The discussions did not focus on rights or on existing programs and policies. The parties in effect deconstructed the original, segmented approach of seven topics as defined in the workplan and replaced it with a more integrated perspective, one which was more consistent with Treaty First Nations' understanding of the treaties, and with Canada's commitment to develop strong partnerships with First Nations.

The Office of the Treaty Commissioner assisted both Canada and the FSIN during the first phase of the bilateral process at the Exploratory Treaty Table by chairing meetings between the parties, facilitating the process, commissioning research requested by the parties, chairing the Treaty Elders Forums, and undertaking activities to increase public awareness of the treaties. At the Exploratory Treaty Table, the parties focused their discussions primarily on the nature of the treaty relationship including the treaty-making process, the purpose of treaty-making, and the treaty relationship in the future.

The discussions taking place at the Exploratory Treaty Table are foundational and will inform the discussions at the Common Table, the Fiscal Relations Table and the Governance Table. Furthermore, the principles of the treaty relationship from the Exploratory Treaty Table should guide the discussions at the other tables. Understanding and recognizing these fundamental principles is crucial if the paradigm shift described in this report is to proceed. The parties at the Exploratory Treaty Table have come to appreciate how the principles of the treaty relationship can provide a stable and positive context for the renewal process.

6.3.2 The Common Table – Implementing the Treaty Relationship

A Common Table was created by Canada, Saskatchewan and the Federation of Saskatchewan Indian Nations in October, 1996 to discuss matters of mutual concern and priority. The three seats at the Common Table are held by the federal Minister of Indian Affairs and Northern Development, the provincial Minister of Intergovernmental and Aboriginal Affairs, and the Chief of the FSIN. The parties recognize that the process for implementing Treaty First Nations governance must extend to the Government of Saskatchewan. In this respect, the purpose of the Common Table is to:

- identify and facilitate effective processes for negotiating and implementing self-government among Canada, First Nations and Saskatchewan;
- discuss the interrelationships between jurisdiction and fiscal arrangements as they relate to the development of First Nations self-government;
- establish other priorities for discussion;
- discuss treaty issues when they affect all three parties; and
- review progress of the various processes.

The FSIN, Canada and Saskatchewan have indicated that they are committed to working out the best process for implementing Treaty First Nations governance in Saskatchewan, building on the treaty relationship. The Common Table, Fiscal Relations Table and Governance Table are the forums that are intended to advance the governance discussions.

In establishing the other tables, the parties (Canada, FSIN, and Saskatchewan) recognized the importance of building upon the treaty relationship. In doing so, the parties will look to the continuing work of the Exploratory Treaty Table for information and guidance as it relates to building on the treaty relationship.

6.3.3 Fiscal Relations Table

The FSIN, Canada and Saskatchewan created a Fiscal Relations Table in August of 1997. The work of the Fiscal Relations Table will be directed towards the following goals:

- enhancing effectiveness and efficiency of fiscal relations;
- fiscal independence;
- neutrality;
- continuity, stability, and sustainability;
- affordability;
- accountability, visibility and transparency; and
- collecting and exchanging data as identified by the parties.

Following the August 1997 Memorandum of Understanding creating the Fiscal Relations Table, the three parties negotiated a workplan consisting of four phases. Phase one consists of joint exploratory discussions where policy options are developed and assessed; phase two involves consensus building, where the interests of all parties are integrated; phase three will involve joint drafting of an Umbrella Fiscal Agreement; and joint drafting of implementation plans will be undertaken in phase four.

The technical work required in phase one has been undertaken by three working groups of officials which report to the Fiscal Relations Table. The Data Working Group has been active in collecting and analyzing data to be used in future phases. Its focus has been on identifying governments' spending on First Nations in Saskatchewan and examining demographic data. This information will be used in negotiating the terms of the Umbrella Fiscal Agreement. The Accountability Working Group has prepared a joint conceptual paper on accountability principles and mechanisms that will guide the Fiscal Relations Table in its development of the Umbrella Fiscal Agreement. It is also contributing to identifying the needs of First Nations in developing their governance capacities and is exploring ideas for including dispute resolution mechanisms both within First Nations governments and between governments as part of the fiscal transfer system. The Revenue Options Working Group has a mandate to explore options for First Nations' own source revenue generation, including resource revenue sharing and taxation, and how they might be factored into a comprehensive Umbrella Fiscal Agreement.

6.3.4 Governance Table

Treaty First Nations continue to move toward a revitalization of traditional values and practices and their reintegration into institutions of government. FSIN stated at the Exploratory Treaty Table that Treaty First Nations in Saskatchewan are committed to exercising jurisdiction consistent with the treaty relationship. They intend to develop laws, economies, and programs and services best suited to their needs and values and best able to improve the lives of their citizens. In implementing Treaty First Nations' governance within the treaty relationship, First Nations' governments will need to be supported in the institutional development and maintenance of good governance.

In this regard, Canada, Saskatchewan and FSIN have established a Governance Table and a workplan. The purpose of the table is to facilitate the recognition and implementation of Treaty First Nations' governance in Saskatchewan through intergovernmental agreements in an integrated context with the other tables. The Governance Table will work toward a new relationship which:

- is consistent with and builds upon the treaty relationship;
- is consistent with the implementation of the inherent right of self-government;
- recognizes First Nations' jurisdiction and authority and their relationship to the jurisdiction and authority of other parties; and
- provides for effective and efficient governance, exercise of jurisdiction and program delivery to First Nations citizens.

The first stage of discussions will be exploratory in nature. This stage includes an extensive public consultation process with Treaty First Nations by the FSIN, and an examination of the possible scope of Treaty First Nations' governance by all three parties.

6.4 Next Steps in the Evolving Treaty Relationship

Treaty First Nations in Saskatchewan have a great opportunity for renewal based on treaty principles leading to a new form of government inspired by traditional ideas regarding governance and democracy. The opportunities for renewal in Saskatchewan are reflected in the cooperative efforts of the First Nations in Saskatchewan to establish and operate institutions. Such institutions have provincial and national impact. The Saskatchewan Indian Federated College, the Saskatchewan Indian Cultural Centre, the Saskatchewan Indian Institute of Technologies, the Saskatchewan Indian Gaming Authority, and the First Nations Bank of Canada represent a few examples of the great successes of First Nations acting together.

The future of Treaty First Nations' government in Saskatchewan is the responsibility of the First Nations. Treaty First Nations should dedicate considerable effort to the design of an appropriate and effective governance structure which is consistent with the principles underlying the treaty relationship. The Royal Commission on Aboriginal Peoples commissioned research and undertook extensive consultations on issues affecting First Nations' governance. It stated:

...To put in place fully legitimate governments, Aboriginal peoples must have the freedom, time, encouragement, and resources to design their own political institutions,

through inclusive processes that involve consensus building at the grassroots level.¹²

The FSIN is embracing this approach. It has stated that they will examine the options for a province-wide First Nations governance structure that will address the First Nations community, Tribal Council and province-wide levels. Many options and questions will need to be explored during the developmental stages of a First Nations governance structure. Consultations are expected on a wide scale to move toward a consensus on a model of governance.

The parties acknowledge that there will also be a need to establish relations between First Nations governments and other levels of government. The Government of Canada and the Government of Saskatchewan need to work in partnership with Treaty First Nations to find creative solutions that best serve the interests of all Saskatchewan residents. In this respect, the Government of Saskatchewan has a role in the renewal process that is described in this *Statement*. Saskatchewan, as a provincial government, has been given authority through the constitution of Canada over people and territory. Treaty First Nations wish to exercise jurisdiction in many areas where Saskatchewan now exercises authority, such as education, child welfare and justice. Clearly then, working out new arrangements must involve close contact and discussions with provincial authorities.

6.4.1 Integrating the Processes

A vital step in the evolving treaty partnership involves coordination and integration of the various processes. The parties should ensure that their discussions on treaty, fiscal, and governance issues are linked with each other and with the treaties. Integration is essential. The outcome of the discussions occurring at the various tables will have a significant impact on future relations between Treaty First Nations, the Governments of Canada and Saskatchewan, and the people of Saskatchewan.

While the discussions at each of the tables encompass distinct elements, there are common threads that naturally bind the processes together. First, the discussions are designed to support the establishment of strong, effective First Nations governments in Saskatchewan. Second, the parties are seeking to clarify areas of jurisdiction and related fiscal relations between Treaty First Nations, Canada and Saskatchewan. Finally, the principles and other common understandings underlying the treaty relationship described in this document can form the foundation for strengthening the treaty partnership. It is intended that these common understandings will provide the framework for discussions at the Governance and Fiscal Relations Tables. Coordination and integration of the processes, involving FSIN, Canada and Saskatchewan will foster future efficiency and ensure that the treaty principles are observed.

6.4.2 Continuing Work of the Exploratory Treaty Table

The Exploratory Treaty Table has been very successful in finding common understandings regarding the treaty relationship and in pointing the way for a renewed treaty partnership. Its work is far from done, however, in that the parties were unable to explore completely all of the subject matters included in the workplan. The parties agree that further discussions are needed in the areas of health; shelter; annuities; and hunting, fishing, trapping and gathering. Ongoing exploratory treaty discussions will allow the parties to fully discuss the policy impli-

cations of advancing these issues based on the treaty relationship. Discussions in the areas of education, child welfare and justice advanced to a point where some aspects of these subject matters can also be pursued at the other tables. These forums will provide for full participation by the Government of Saskatchewan. We anticipate continuing our discussions in each of these seven treaty issues in order to further identify common understandings, building on the treaty relationship in a contemporary context. The parties anticipate focusing on the following items in the next series of Exploratory Treaty Table meetings and Treaty Elders' Forums: lands and resources; hunting, fishing, trapping and gathering; and governance and justice.

A significant achievement of the Exploratory Treaty Table discussions has been the emergence and development of three common themes. The themes are livelihood, governance and brother-to-brother relations. Throughout the exploratory discussions, the parties heard that by entering into a treaty relationship with the Crown, First Nations understood that they would have access to the means to provide for the well-being of themselves and their families. These include opportunities to continue to pursue a traditional livelihood and participate in the new economy, and continue to govern in specific areas. In today's context, having access to the means to provide for First Nations' well-being also includes working out effective intergovernmental arrangements with Canada and Saskatchewan which was described by Treaty First Nations as maintaining "brother-to-brother" relations.

The parties have also identified several specific areas that would merit examination at the Exploratory Treaty Table. For instance, research could prove helpful on the significance of the treaty suits for Chiefs and Headmen, the treaty medals, and the flags issued to Chiefs at the time of treaty-making. Further work is also required before specific policy recommendations can be made on the identification, designation and protection of historic treaty sites.

Throughout the Exploratory Treaty Table discussions and the Elders' forums, the parties were told of the sense of injustice that continues to get in the way of First Nations' healing. From a historical perspective, the Elders spoke about the "unfinished treaty business" surrounding lands and resources. In response to this issue, the parties agree that further research and exploratory discussions on lands and resources and hunting, fishing, trapping and gathering will be undertaken.

As ongoing work that began in phase one of the workplan, the Office of the Treaty Commissioner would like to continue working in partnership with the parties to finalize the commissioned studies on the written and oral history of the treaties in Saskatchewan. The studies can be used in raising public awareness and understanding on treaties.

6.4.3 The Need for Public Education

The Exploratory Treaty Table discussions have been the primary focus of the Office of the Treaty Commissioner over the past year. At the same time, however, the parties clearly recognized a fundamental need for the Saskatchewan public to become better informed about the treaties and the treaty partnership in Saskatchewan. In order to foster an environment in which the treaty relationship is understood and embraced, the Office of the Treaty Commissioner and the parties need to work towards creating a greater awareness and understanding of the treaties and the treaty relationship among all people in Saskatchewan through public education.

In their discussions with people across Canada, the Royal Commission on Aboriginal Peoples identified a need for public education to raise awareness of Aboriginal issues generally, and treaties in particular. The Commission stated in their report,

From [our] first days, we have been reminded repeatedly of the limited understanding of Aboriginal issues among non-Aboriginal Canadians and of the obstacles this presents to achieving reconciliation and a new relationship.¹³

The Commission recommended that, “federal, provincial and territorial governments provide programs of public education about the treaties to promote public understanding...”¹⁴

First Nations and other Canadians should be aware of the diversity and richness of their separate and collective histories, their cultures, and the role that treaties played in shaping Saskatchewan. As Elder Danny Musqua stated at the Exploratory Treaty Table:

We’re trying to put to the public that we have a relationship with the country. We have a relationship with the people from Her Majesty’s government. And that relationship must be maintained, and it has to be looked upon with excitement and the hope that was there 125 years ago.¹⁵

In its response to the Royal Commission, the Government of Canada agreed that public education was necessary. In “Gathering Strength: Canada’s Aboriginal Action Plan”, the government stated that,

Partners need to understand one another. To that end, Aboriginal people and other stakeholders will be asked to join in a public education campaign that builds on existing initiatives, programs and events.¹⁶

The Office of the Treaty Commissioner has a major role to play in facilitating awareness and understanding of treaties and the treaty partnership through public education. In the spirit of “good neighbours,” the treaty partnership should be commemorated and celebrated. A comprehensive public education program will be required not only to raise awareness, but also to promote interaction and encourage social change.

Endnotes

¹ FSIN, “ Preliminary Views on Implementing Treaties Between the Crown and the First Nations of Saskatchewan of Treaty No. 4, 5, 6, 8, and 10”, p.16.

² “Gathering Strength”, p.17.

³ Speech by The Honourable Roy Romanow, Premier of the Government of Saskatchewan on the occasion of the renewal of the Office of the Treaty Commissioner and signing of the Protocol Agreement to Establish a Common Table, October 31, 1996.

⁴ “Gathering Strength”, p.18.

⁵ Elder Jonas Lariviere, *supra* note 10, p.69.

⁶ Notes for an Address by the Honourable Jane Stewart, Minister of Indian Affairs and Northern Development on the occasion of the unveiling of “Gathering Strength - Canada’s Aboriginal Action Plan”, January 7, 1998, Ottawa, p.6.

⁷ “Gathering Strength”, p.4.

⁸ *Report of the Royal Commission on Aboriginal Peoples*, vol.1, p.685. Emphasis in original document.

⁹ Verbatim transcript of oral presentation by Elder Jimmy Myo to the Exploratory Treaty Table on December 9, 1997, Saskatoon, Saskatchewan.

¹⁰ *Report of the Royal Commission on Aboriginal Peoples*, vol. 1, p.682.

¹¹ Elder Joe Stick, Onion Lake First Nation, Treaty Elders’ Forum, La Ronge, Saskatchewan, November 28, 1997.

¹² *Report of the Royal Commission on Aboriginal Peoples*, vol. 2, part one, p.165.

¹³ *Report of the Royal Commission on Aboriginal Peoples*, vol. 5, p.92.

¹⁴ *Report of the Royal Commission on Aboriginal Peoples*, vol. 2, part one, p.22.

¹⁵ Verbatim transcript of oral presentation by Elder Danny Musqua to the Exploratory Treaty Table on December 9, 1997, Saskatoon, Saskatchewan.

¹⁶ “Gathering Strength”, p.12.

7. Conclusion

In concluding this report, we cast our eyes to the future. As stated earlier, treaties are a bridge to the past, but they can also be a bridge to the future. We begin by examining the importance of First Nations to the future of Saskatchewan.

7.1 First Nations and Saskatchewan's Future

The economy and demography of Saskatchewan are undergoing rapid changes that will increase the impacts of First Nations on Saskatchewan as a whole. Saskatchewan has traditionally been one of the most agricultural and rural of Canada's Provinces. Changing aspirations, new agricultural technologies, and the forces of global competition are making agriculture more capital-intensive and less labour-intensive. In 1996, agriculture and related services provided approximately one-fifth of all jobs in Saskatchewan, and about 15% of the Province's total economic output as a percentage of gross domestic product.¹ Although agriculture continues to be an essential economic force, the economy is diversifying into such areas as mining, manufacturing, and transportation.²

These sectors continue to grow as Saskatchewan moves increasingly toward a more urban economy. In 1976, the rural population of Saskatchewan was 44%; in 1996, it was 37%.³ Saskatchewan's youth are moving in growing numbers from rural areas to Saskatoon, Regina, and other western cities. The urban population of Saskatchewan is, on average, significantly younger than the population in rural areas. Increasingly, the economic future of the province will be shaped by its younger urban population and the skills and productivity that they bring to the work force – and a significant part of this population will comprise First Nations youth.

First Nations are the fastest-growing segment of Saskatchewan's population. About one-half of Saskatchewan First Nations people today are under 20 years of age.⁴ These young First Nations people are the urban workforce of tomorrow. Half of all First Nations people live off-reserve. Nearly one-quarter live in Saskatoon and Regina alone – and this trend can be expected to continue. Their skills, well-being, and productivity are inextricably linked to the well-

being of the people in Saskatchewan as a whole.

Population changes and labour force changes inevitably lead to changes in public policy. This can be seen in the changes now underway in Saskatchewan. For more than a century, Saskatchewan promoted the growth of rural service centres; in relation to population, there are more municipalities in Saskatchewan than in any other province. This policy is changing in response to urbanization and industrialization, declining federal transfer payments, and public demands for balanced budgets and fiscal restraint. Rural infrastructure is being streamlined and consolidated, and towns are seeking alternative sources of funding to continue operating local schools, hospitals, and recreational facilities.

As people increasingly move to cities, rural First Nations and non-First Nations populations will need to build strong partnerships with one another in order to maintain standards, strong institutions, and the excellent quality of life currently available to rural residents. Skilled, stable, financially-secure First Nations governments are important to the future of Saskatchewan's rural areas.

The importance of First Nations to the future of the province as a whole underscores the need to act now to fulfil the vision of the historic treaties in which First Nations people and other people stand side by side, sharing resources and responsibilities, and working toward the common goal of mutual well-being. While benefits have accrued to both sides as a result of the treaties, others have benefitted far more than Treaty First Nations. This imbalance needs to be corrected. Both treaty partners need to be healthy and strong if the partnership is to thrive and the potential of the original vision is to be realized.

As long as First Nations people continue to encounter obstacles arising from poverty, poor health, and injustice, they will continue to be hampered in the contributions which they can make. As a result, we will not realize the tremendous creativity and energy of First Nations which would make Saskatchewan and Canada a better place for all communities and peoples.

7.2 Exploratory Treaty Table

The first year of discussions at the Exploratory Treaty Table in Saskatchewan resulted in the discovery of substantial common ground on understanding the treaty relationship, on the policy implications of building on the treaty relationship, and on the mutual benefits of doing so for Canada, Saskatchewan and Treaty First Nations. In short, it was a very productive year. We now have a better understanding of the goals and expectations of Treaty First Nations. We have gained considerable knowledge about the history of the five treaties in Saskatchewan, from both oral and written sources. In developing common understandings, the parties benefitted from listening to Treaty First Nations' Elders' perspectives and understandings on treaties in Saskatchewan. The Office of the Treaty Commissioner commissioned independent research on the five treaties in Saskatchewan, research which was also crucial to the parties in developing common understandings and, ultimately, to the writing of this report. And in terms of policy implications, we have completed preliminary discussions in three areas: child welfare, education and justice.

During the Exploratory Treaty Table discussions, the parties also changed the way in which they conducted their affairs. The parties came to the Exploratory Treaty Table as partners, earning the trust and cooperation of the other. The Office of the Treaty Commissioner and the parties conducted themselves in a manner which fosters trust, respect, and confidence: this built a climate of cooperation, equality, and pragmatism.

Throughout the Exploratory Treaty Table discussions, the parties looked to the past through the treaty relationship, but they also examined treaties as a bridge to the future. The participants in this process are of the view that the renewal and fulfillment of the original treaty relationship will be of direct and lasting benefit to all of the people who live in Saskatchewan.

The parties approached the exploratory discussions with a spirit of mutual respect and partnership. In exploring their respective views on the seven specific issues identified in the work plan, the parties adopted a flexible, forward-looking perspective based on the treaty relationship. They focused on building common understandings on the nature of the treaty relationship, the purpose of treaty-making, and the treaty relationship in the future. As discussions proceeded, three themes emerged: livelihood, governance, and brother-to-brother relations. The seven specific treaty issues were addressed in terms of these broad themes.

The parties expressed a strong interest in exploring a new paradigm for relations with one another, one which could turn the page on the *Indian Act* approach and build, instead, upon the common understandings of the treaty relationship. The FSIN, the Government of Canada and the Government of Saskatchewan are moving forward through the comprehensive processes described in this document.

7.3 The Nature of the Treaty Relationship

Significant progress was made in developing common understandings about the nature of the treaty relationship. The parties developed the following common understandings in this regard.

- Treaty-making incorporated the customs of the respective parties and created a fundamental political relationship between Treaty First Nations and the Crown. Treaties gave shape to this relationship, creating obligations and expectations on both sides.
- The treaty-making process between the parties involved the exchange of solemn promises, based on respect for the spiritual and traditional values of the other. The Crown and Treaty First Nations entered into the agreements freely and of their own accord as the best possible means of advancing their respective interests.
- In entering into these agreements, both the representatives of the Crown and those of Treaty First Nations recognized each others' authority and their capacity to enter into treaties on behalf of their respective people.
- One of the fundamental treaty principles is the acknowledgment by the treaty parties of the solemnity of the treaties.
- The treaty-making process contains within it the treaty principle of maintaining the honour of the Crown and the honour of Treaty First Nations in maintaining the treaty relationship. Equally important was the conduct and behavior of the parties to honour and respect the commitments made in treaties.

A key principle underlying the treaty relationship is that of mutuality. The respect of the treaty partners is mutual. The solemn commitment is mutual. And the benefits are to be mutual. There are obligations and expectations on both sides. The historical respect for the customs and traditions of the other can be used today to deepen our understanding and to reaffirm our commitment to diversity. Treaties were built on mutual respect, not discrimination and intolerance. Treaties were made by people who wished to live together in peace and prosperity, and who planned to settle their differences through discussion rather than conflict. These mutual interests continue to motivate the treaty partners today.

Developing common understandings on the nature of the treaty relationship builds good will and understanding, and permits the parties to explore the purpose of treaty-making from the perspectives of both parties.

7.4 The Purpose of Treaty-Making

With respect to the purposes of treaty-making, the parties came to the following common understandings:

- The treaties were to provide for peace and good order between the parties, and among the First Nations.
- The treaty-making process was a means to build lasting and meaningful alliances between the parties that would foster the future well-being of the people they represented.
- The treaties were foundational agreements that were entered into for the purpose of providing the parties with the means of achieving survival and stability, anchored on the principle of mutual benefit.
- The relationship between the Treaty First Nations and the Crown is one in which the parties have both benefits and responsibilities with respect to one another. The treaties created mutual obligations that were to be respected by the parties.

Everyone in Saskatchewan (and to a lesser degree, in Canada as a whole) is a beneficiary of the Prairie treaties. Once treaties had opened the Prairies to peaceful settlement, western grain and coal fed and fuelled Canada's industrialization. Had the treaties not been made, the development of Canada's economy would have been delayed for a generation or longer, and Canada could have lost the west to the United States in the American quest for what they conceived to be their "manifest destiny" to control the continent, at least as far north as the 54th parallel. Saskatchewan enjoys a dynamic, competitive economy today in large part due to the enormous bounty reaped over the past century as a result of the treaty relationship.

A century ago, First Nations and European settlers alike reckoned their economic prospects in terms of good farmland, livestock, and animal-powered machinery. Education meant little more than basic literacy and numeracy, and the entire pharmacy in regular use among Canadian physicians could reasonably have been packed into a single "medicine

chest.” The Province of Saskatchewan had not yet been organized, and the Crown relied largely on Indian Agents and the Northwest Mounted Police to implement treaty obligations.

As we heard from Treaty Elders, today Treaty First Nations still look to the treaty relationship for assuring the means of livelihood. In contemporary society, making a living requires more than the tools and implements described in the written texts of the treaties. Like other Canadians, Treaty First Nations require access to new technologies and large-scale organization. This places a premium on diversified knowledge and skills. Innovation and productivity will be crucial, increasing the importance of the quality of education and health services.

7.5 The Treaty Relationship in the Future

In looking to the future, the present-day representatives of the treaty parties outlined the following principles as appropriate to guide the conduct of the treaty partners:

- The treaty relationship is one in which the parties expect to resolve differences through mutual discussion and decision.
- The parties share a common commitment to reinvigorate the treaty relationship, and to build on a partnership that can address the well-being of both parties in a respectful and supportive way.
- Canada and Treaty First Nations can enter into arrangements whereby Treaty First Nations exercise jurisdiction and governance over their lands and people, building upon the foundation of their treaty relationship with Canada. These agreements should not alter the treaties; rather they should implement the treaty partnership in a contemporary way while respecting the principles of treaty-making.
- The parties recognize that the participation of the Government of Saskatchewan is required for there to be significant progress on the implementation on Treaty First Nations’ jurisdiction and governance within Saskatchewan, and they believe that the principles of the treaty relationship are beneficial for all people in Saskatchewan.

As the Exploratory Treaty Table has shown, a serious and sustained dialogue can restore a level of trust and cooperation between the parties, and eventually find practical ways of strengthening the treaty partnership. Good will and cooperation among governments are a necessary, but insufficient, condition for that renewal; the treaty relationship also depends upon the commitment, good will, and participation of individual Canadians.

7.6 Public Education

The parties recognized a fundamental need for the public to be fully and effectively informed about the treaties, and about the treaty renewal process which has now begun. It is imperative to launch a strong public awareness and involvement program, conducive to a climate of broad public understanding and support for renewing the treaty relationship. Such a campaign can benefit from the increasing participation of civic actors such as the rural and

urban municipalities, churches and business leaders, and service organizations of First Nations people.

The required message is simple. As stated by Saulteaux Elder Danny Musqua at one of the Exploratory Treaty Table meetings, the treaties are “not only for Indians to benefit. The white people are going to benefit out of that, too.”

7.7 Our Vision

The chief goal of this process has been to create conditions for mutual respect at all levels of the treaty relationship, from the representatives of governments seated at the Treaty Table, to the individual citizens of Treaty First Nations and Saskatchewan. We have sought to restore the mutual kindness associated with the treaty relationship by Treaty Elders. This climate must now be reinforced at the political level, and widened to include an even greater cross-section of Saskatchewan people.

The future of Saskatchewan, and indeed of western Canada as a whole, will be determined in no small measure by efforts to heal relationships with First Nations. First Nations are growing as a demographic and economic reality, and their prosperity will have a significant impact on their neighbours. Revitalizing the treaty relationship has the potential for becoming a unifying force that redefines and enriches what it means to be Canadian, and what is distinctive about living in the Prairies.

A first step has now been taken. The parties have shown a commendable measure of mutual respect and flexibility. There is growing public interest in the process, and growing expectations about the importance of the outcome. Let us not disappoint the ancestors, or the children yet to come.

Endnotes

¹ Statistics Canada, “The Labour Force, 1996”, cat. no. 71-001; Statistics Canada, “Provincial GDP by Industry, 1996”, cat. no. 15-203-XPB.

² Statistics Canada, “The Labour Force, 1996”, cat. no. 71-001.

³ Statistics Canada, “Population: Geographic Distributions, Urban and Rural Distribution”, cat. no. 92-807; Statistics Canada, “A National Overview, Population and Dwelling Counts”, cat. no. 93-357-XPB.

⁴ Health Canada, “1996 Vital Statistics of the Saskatchewan Registered Indian Population”, p.22.

Appendix A

Exploratory Treaty Table Meetings

Issues discussed	Date	Location
Preliminary Meeting	May 8, 1997	OTC, Saskatoon
Treaty Table Work Plan	June 5, 1997	OTC, Saskatoon
RCAP Report, Treaty Chapter	June 26-27, 1997	Ottawa
Spirit and Intent of Treaties	July 15-17, 1997	OTC, Saskatoon
Statement of Treaty Issues	Aug 12-14, 1997	OTC, Saskatoon
Education, Child Welfare, Health	Sept 3-5, 1997	OTC, Saskatoon
Health and Shelter	Sept 17-18, 1997	Fort Qu'Appelle and Regina
Justice	Oct 8, 1997	OTC, Saskatoon
Treaty Annuities	Nov 26, 1997	OTC, Saskatoon
Hunting, fishing, trapping, gathering	Dec 9-11, 1997	OTC, Saskatoon
Statement of Treaty Issues and Historical Research	Jan 20-22, 1998	OTC, Saskatoon

Appendix B

Treaty Elders' Forums

Treaty Area(s) Involved	Date	Location
Treaty 4, 5, 6, 8, and 10 Elders	May 22-23, 1997	Nekaneet First Nation
Treaty 4 Elders Reserve	Sept 15-16, 1997	Fort Qu'Appelle and Wapii-moostosis
Treaty 5 Elders	Oct 9, 1997	Nipawin
Treaty 8 and 10 Elders	Nov 3-5, 1997	Hatchet Lake, Black Lake, and Fond du lac Dene Nations
Treaty 6 Elders	Nov 12-14, 1997	Jackfish Lake Lodge
Treaty 6 and 10 Elders	Nov 24-25, 1997	Meadow Lake
Treaty 6 Elders	Nov 27-28, 1997	La Ronge

Appendix C

Participants at the Exploratory Treaty Table

Office of the Treaty Commissioner

Arnot, David M.,	Treaty Commissioner
Adam, Susan	
Barsh, Russel	
Lerat, Kay	
Marlor, Chantelle	
Robinson, Tracey	
Stevenson, Winona	

Federation of Saskatchewan Indian Nations

Acoose, Paula	Office of Education
Albright, Cal	Justice
Angus, Albert	FSIN Consultant/Cree Interpreter
Atimoyoo, Sandra	Health and Social Development
Bateman, Lori	FSIN Communications
Bear, Lori	Treaty Governance Office
Bellegarde, Dan	FSIN Vice Chief
Bigwin, Alayne	Office of Education
Cardinal, Harold	FSIN Consultant/Cree Interpreter
Daniels, Leanne	Treaty Governance Office
Demarais, Nancy	Treaty Governance Office
Dinwoodie, Marian	Treaty Governance Office
Ermine, Hilliard	Elder, Sturgeon Lake First Nation
Favel, Blaine	FSIN Chief
Favel-King, Alma	Health and Social Development
Gordon-Murdoch, Anita	Treaty Governance Office
Greyeyes, Spencer	FSIN Elders' Assistant
Hildebrandt, Walter	FSIN Consultant/Advisor
Lafond, Mary Ellen	FSIN representative
Long, Murray	Treaty Governance Office
Lucarz-Simpson, Joanne	Health and Social Development
Manitoken, Brenda	Treaty Governance Office
Martell, Lloyd	Treaty Governance Office
McNab, Claire	Health and Social Development
Munro, Tanyss	Treaty Governance Office
Musqua, Danny	Elder, Keeseekoose First Nation
Myo, Jimmy	Elder, Moosomin First Nation
Oakes, Gordon	Elder, Nekaneet First Nation
Sanderson, Carole	Treaty Governance Office
Sanderson, Terry	FSIN Vice Chief

Semaganis, Helen	Treaty Governance Office
Starblanket, Irvin	Chief, Star Blanket First Nation
Walker, Howard	FSIN Executive Assistant
Walkingbear, Winston	FSIN Senate Coordinator
Wapass, Delbert	Elders' Assistant, Treaty Governance Office
Winegarden, Darren	Justice
Woods, Pat	FSIN Consultant/Advisor

Government of Canada

Bickert, Geoff	Department of Justice
Bishop, Angela	Department of Justice
Boileau, David	Department of Indian Affairs and Northern Development
Bruyere, Smokey	Department of Indian Affairs and Northern Development
Buckle, Merv	Department of Indian Affairs and Northern Development
Cawood, Val	Department of Indian Affairs and Northern Development
Davies, Irene	Department of Health
Flynn, Heather	Department of Indian Affairs and Northern Development
Gilbert, James	Department of Indian Affairs and Northern Development
Hawkes, David	Canada's representative
Hicks, Bentley	Department of Justice
Kunz, Val	Canada Mortgage and Housing Corporation
Leader, Ross	Department of Health
Norton, Dean	Department of Health
O'Donnell, Brendan	Department of Heritage
Paul, Trenton	Department of Health
Roberge, Karen	Department of Indian Affairs and Northern Development
Roll, Jim	Department of Health
Stewart, Audrey	Department of Indian Affairs and Northern Development
Weselake, Veda	Department of Indian Affairs and Northern Development

Government of Saskatchewan (as observers)

Buchanan, Loree	Intergovernmental and Aboriginal Affairs
Cotter, Brent	Intergovernmental and Aboriginal Affairs
Cunningham, Rob	Intergovernmental and Aboriginal Affairs
Hill, John	Intergovernmental and Aboriginal Affairs
Lawton, Ernie	Intergovernmental and Aboriginal Affairs
Reid, John	Intergovernmental and Aboriginal Affairs
Swaan, Geri	Intergovernmental and Aboriginal Affairs

Appendix D

Elders and Participants at Treaty Elders' Forums

Adam, Allan	Dene Interpreter, Fond du Lac, Denesuline Nation
Adam, Eli	Fond du Lac Denesuline Nation, Treaty No. 8
Adam, Fred	Fond du Lac Denesuline Nation, Treaty No. 8
Ahenakew, Paul	Ahtahkakoop First Nation, Treaty No. 6
Albert, Solomon	Sweetgrass First Nation, Treaty No. 6
Alphonse, Agnes	Black Lake Denesuline Nation, Treaty No. 8
Alphonse, Daniel	Black Lake Denesuline Nation
Alphonse, Edwin	Black Lake Denesuline Nation
Angus, Albert	FSIN Consultant/Cree Interpreter
Awasis, Steve	Elders' Assistant, Thunderchild First Nation
Bear, Gerald	Shoal Lake First Nation, Treaty No. 5
Bear, Maggie	Ochapowace First Nation, Treaty No. 4
Bear, Margaret	Ochapowace First Nation, Treaty No. 4
Beardy, Sandy	Cross Lake First Nation, Treaty No. 5
Bell, Joe	La Ronge First Nation, Treaty No. 6
Bellegarde, Perry	Tribal Rep., Touchwood File Hills Qu'Appelle Tribal Council
Benoanie, Ed	Hatchet Lake Denesuline Nation, Treaty No. 10
Benoanie, Louie	Hatchet Lake Denesuline Nation, Treaty No. 10
Benoanie, Annie	Hatchet Lake Denesuline Nation, Treaty No. 10
Benoanie, Eugene	Hatchet Lake Denesuline Nation, Treaty No. 10
Benson, George	Red Pheasant First Nation, Treaty No. 6
Besskkaystare, Genevieve	Hatchet Lake Denesuline Nation, Treaty No. 10
Besskkaystare, Helenise	Hatchet Lake Denesuline Nation, Treaty No. 10
Besskkaystare, John	Hatchet Lake Denesuline Nation, Treaty No. 10
Big Eye, J.B.	Black Lake Denesuline Nation, Treaty No. 8
Big Eye, Modeste	Black Lake Denesuline Nation
Bill, Jacob sr.	Pelican Lake First Nation, Treaty No. 6
Billette, Alfred	Buffalo River First Nation, Treaty No. 10
Billette, George	Buffalo River First Nation, Treaty No. 10
Bird, Allan	Montreal Lake First Nation, Treaty No. 6
Blackbird, Harry	Makwa Sahgaiehcan First Nation, Treaty No. 6
Brass, Sterling	Key First Nation, Treaty No. 4
Broussie, Mary Ann	Black Lake Denesuline Nation, Treaty No. 8
Buffalo, Sidney	Day Star First Nation, Treaty No. 4
Campbell, Pat	A/Chief, English River Dene Nation, Treaty No. 10
Cannepotato, George	Onion Lake First Nation, Treaty No. 6
Carrier, Clifford	Piapot First Nation, Treaty No. 4
Charles, Abel	La Ronge First Nation, Treaty No. 6
Charles, Cathy	La Ronge First Nation, Treaty No. 6

Charles, Elizabeth	La Ronge First Nation, Treaty No. 6
Charles, Eliza	La Ronge First Nation, Treaty No. 6
Charles, Murdoch	Stanley Mission, La Ronge First Nation
Chief, Daniel	Onion Lake First Nation, Treaty No. 6
Chief, Lloyd	Onion Lake First Nation, Treaty No. 6
Chief, Peter	Onion Lake First Nation, Treaty No. 6
Cook, John	Black Lake Denesuline Nation, Treaty No. 8
Cook, Meline	Black Lake Denesuline Nation, Treaty No. 8
Cook, Harry	Chief, La Ronge First Nation, Treaty No. 6
Cote, Angus	Cote First Nation, Treaty No. 4
Cote, John F.	Cote First Nation, Treaty No. 4
Crosby, Kevin	Principal, Father Gamache Memorial School, Fond du Lac
Crowe, Ernest	Piapot First Nation, Treaty No. 4
Crowe, Joseph	Kahkewistahaw First Nation, Treaty No. 4
Denecheze, Abel	Hatchet Lake Denesuline Nation, Treaty No. 10
Denecheze, Boniface	Hatchet Lake Denesuline Nation, Treaty No. 10
Denecheze, Mary Anne	Dene Interpreter, Hatchet Lake Denesuline Nation
Deranger, Jimmy	Fond du Lac Denesuline Nation, Treaty No. 8
Dezane, Louise	Black Lake Denesuline Nation, Treaty No. 8
Dillon, Norman Pat	Onion Lake First Nation, Treaty No. 6
Donnard, Anne	Black Lake Denesuline Nation, Treaty No. 8
Dzenlioun, Jimmy sr.	Hatchet Lake Denesuline Nation, Treaty No. 10
Dzenlioun, Modeste	Hatchet Lake Denesuline Nation, Treaty No. 10
Dzeylion, Bart	Hatchet Lake Denesuline Nation, Treaty No. 10
Echodh, Victor	Acting/Chief, Black Lake Denesuline Nation, Treaty No. 8
Ermine, Hilliard	Sturgeon Lake First Nation, Treaty No. 6
Ewack, Rose	Ocean Man First Nation, Treaty No. 4 Elder
Fern, Modeste	Fond du Lac Denesuline Nation, Treaty No. 8
Fern, Robert	Fond du Lac Denesuline Nation, Treaty No. 8
Finch, Janet	La Ronge First Nation, Treaty No. 6
Fineday, Jerry	Elders' Assistant, Sask. Indian Cultural Centre
Flett, Beulah	Shoal Lake First Nation, Treaty No. 5
Flett, Emil	Shoal Lake First Nation, Treaty No. 5
Flett, Gilbert	Shoal Lake First Nation, Treaty No. 5
Fox, Roger	Elders' Assistant, Sweetgrass First Nation
George, Arthur	Ochapowace First Nation, Treaty No. 4
Goforth, Aubrey	Peepeekisis First Nation, Treaty No. 4
Gordon, Andrew	Pasqua First Nation, Treaty No. 4
Halkett, Doris	Little Red River Reserve, La Ronge side, Treaty No. 6
Halkett, Isiah	Little Red River Reserve, Montreal Lake side, Treaty No. 6
Hansen, Emile	Hatchet Lake Denesuline Nation, Treaty No. 10
Hay, Elaine	Dene Interpreter, Sask. Indian Cultural Centre
Head, Abel	Red Earth First Nation Treaty No. 5

Head, Barabus	Treaty No. 5 Elder
Head, John James	Red Earth First Nation, Treaty No. 5
Head, Norman	Shoal Lake First Nation, Treaty No. 5
Head, Rachel	Shoal Lake First Nation, Treaty No. 5
Henderson, Norman	Montreal Lake First Nation, Treaty No. 6
Isadore, Caroline	Chief of Fond du Lac Denesuline Nation, Treaty No. 10
Josie, Maggie	Hatchet Lake Denesuline Nation, Treaty No. 10
Josie, Martin	Hatchet Lake Denesuline Nation, Treaty No. 10
Joseyounen, Angus	Hatchet Lake Denesuline Nation, Treaty No. 10
Kenny, Marlo	Ochapowace First Nation, Treaty No. 4
Kinequon, Tony	Day Star First Nation, Treaty No. 4
Kkailther, Hector	Chief of Hatchet Lake Denesuline Nation, Treaty No. 10
Kkaikkia, Jimmy J.J.	Hatchet Lake Denesuline Nation, Treaty No. 10
Kkakkkia, John James	Hatchet Lake Denesuline Nation, Treaty No. 10
Kytwayhat, Alma	Makwa Sahgaiehcan First Nation, Treaty No. 6
Kytwayhat, Simon	Makwa Sahgaiehcan First Nation, Treaty No. 6
Lachance, Ben	Flying Dust Cree Nation, Treaty No. 6
Lafond, Alpha	Muskeg Lake First Nation, Treaty No. 6
Lajure, Auguste	Fond du Lac Denesuline Nation, Treaty No. 8
Lariviere, Gabriel	Canoe Lake First Nation, Treaty No. 10
Lariviere, Jonas	Canoe Lake First Nation, Treaty No. 10
Ledoux, Arthur	Mistawasis First Nation, Treaty No. 6
MacDonald, Bart	Fond du Lac Denesuline Nation, Treaty No. 8
MacDonald, Magloire	Fond du Lac Denesuline Nation, Treaty No. 8
Madill, Napoleon	Black Lake Denesuline Nation, Treaty No. 8
Martell, Fred	Waterhen Lake First Nation, Treaty No. 6
McIntyre, Frank	English River First Nation, Treaty No. 10
McKenzie, Isaac M.	Grandmother's Bay, Treaty No. 10
McKenzie, Lizette	Red Earth First Nation, Treaty No. 5
McKenzie, Napoleon	Stony Rapids Denesuline Nation, Treaty No. 8
McNab, Isabel	Gordon's First Nation, Treaty No. 4
Merasty, Hilliard	Little Red River First Nation, Treaty No. 6
Mercredi, Andrew	Fond du Lac Denesuline Nation, Treaty No. 8
Michael, Harry Sr.	Beardy's & Okemasis First Nation, Treaty No. 6
Mike, George	Beardy's & Okemasis First Nation, Treaty No. 6
Musqua, Danny	Keeseekoosie First Nation, Treaty No. 4
Myo, Jimmy	Moosomin First Nation, Treaty No. 6
Naytowhow, Amos	Montreal Lake First Nation, Treaty No. 6
Naytowhow, Matilda	Montreal Lake First Nation, Treaty No. 6
Neapetung, Darlene	Yellow Quill First Nation, Treaty No. 4
Nelga, Pierre	Black Lake Denesuline Nation, Treaty No. 8
Nicotine, Harry	Red Pheasant First Nation, Treaty No. 6
Oakes, Gordon	Nekaneet First Nation, Treaty No. 4

Oakes, Larry	Chief, Nekaneet First Nation, Interpreter
Pasqua, Stanley	Pasqua First Nation, Treaty No. 4
Peigan, Willie	Pasqua First Nation, Treaty No. 4
Peigan, Alfred	Pasqua First Nation, Treaty No. 4
Piche, Paul Louis	Fond du Lac Denesuline Nation, Treaty No. 8
Poorman, Elsie	Kawacatoose First Nation, Treaty No. 4
Pratt, Bill	Muscowpetung First Nation, Treaty No. 4
Rabbitskin, Douglas	Pelican Lake First Nation, Treaty No. 6
Randhill, Celeste	Fond du Lac Denesuline Nation, Treaty No. 8
Ratt, Carolyn	La Ronge First Nation, Treaty No. 6
Roberts, Art	FSIN Elders' Assistant
Roberts, Jim	Interpreter, La Ronge First Nation
Roberts, Peter	La Ronge First Nation, Treaty No. 6
Roberts, Zachaus	Sucker River, Treaty No. 6
Robillard, Martin	Black Lake Denesuline Nation, Treaty No. 8
Robillard, Pat	Black Lake Denesuline Nation, Treaty No. 8
Robillard, Phillip	Black Lake Denesuline Nation, Treaty No. 8
Robillard, Simon	Black Lake Denesuline Nation, Treaty No. 8
Robillard, Ted	Dene Interpreter, Black Lake Denesuline Nation, Treaty No. 8
Ross, Albert	Hall Lake, La Ronge First Nation, Treaty No. 6
Ross, Norman	La Ronge First Nation
Rider, George	Carry the Kettle First Nation, Treaty No. 4
Sandypoint, Billy	Black Lake Denesuline Nation, Treaty No. 8
Sandypoint, Paul	Black Lake Denesuline Nation, Treaty No. 8
Saulteaux, Bernice	Carry the Kettle First Nation, Treaty No. 4
Sayazie, Linda	Prince Albert Grand Council
Sayazie, Martin	Black Lake Denesuline Nation, Treaty No. 8
Skull, Isaac	Black Lake Denesuline Nation, Treaty No. 8
Skull, Moise	Black Lake Denesuline Nation, Treaty No. 8
Sha'Oullie, Thomas	Hatchet Lake Denesuline Nation, Treaty No. 10
Singer, William	Frog Lake First Nation, Treaty No. 6
Spiedel, Don	A.V. Technician, Wanuskewin Heritage Park
Staff & Students	Father Gamache Memorial School, Fond du Lac
Staff & Students	Father Megret High School, Hatchet Lake
Staff & Students	Father Porte Memorial School, Black Lake
St. Pierre, Gabriel	Hatchet Lake Denesuline Nation, Treaty No. 10
St. Pierre, Madeline	Hatchet Lake Denesuline Nation, Treaty No. 10
Stick, Joe	Onion Lake First Nation, Treaty No. 6
Sunchild, Norman	Thunderchild First Nation, Treaty No. 6
Sylvestre, Lambert	Birch Narrows First Nation, Treaty No. 10
Sylvestre, Eugene	Birch Narrows First Nation, Treaty No. 10

Thompson, Kay	Carry the Kettle First Nation, Treaty No. 4
Throssie, Charlie	Black Lake Denesuline Nation, Treaty No. 8
Tobacco, Lawrence	Kawacatoose First Nation, Treaty No. 4
Tootoosis, Eric	Cree Interpreter, Poundmaker First Nation
Toutsaint, Alfred	Black Lake Denesuline Nation, Treaty No. 8
Trossie, Mary Anne	Black Lake Denesuline Nation, Treaty No. 8
Trossie, Charlie	Black Lake Denesuline Nation, Treaty No. 8
Tsannie, Angele sr.	Hatchet Lake Denesuline Nation, Treaty No. 10
Tsannie, Edward	Hatchet Lake Denesuline Nation, Treaty No. 10
Tsannie, George	Hatchet Lake Denesuline Nation, Treaty No. 10
Tsannie, Rosalie sr.	Hatchet Lake Denesuline Nation, Treaty No. 10
Venne, Mary	La Ronge First Nation, Treaty No. 6
Venne, Myles	La Ronge First Nation, Treaty No. 6
Waskahat, Pete	Frog Lake First Nation, Treaty No. 6
Whitecap, Charles	Shoal Lake First Nation, Treaty No. 5
Whitecap, Edith	Shoal Lake First Nation, Treaty No. 5
Whitstone, Henry	FSIN Senator, Onion Lake First Nation, Treaty No. 6
Wolf, Ernest	Onion Lake First Nation, Treaty No. 6
Young, Madeline	Shoal Lake First Nation, Treaty No. 5
Yooya, Moise	Black Lake Denesuline Nation, Treaty No. 8