JOINT MOTION RECORD VOLUME III

Court File No. 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

CHARLES BAXTER, SR. AND ELIJAH BAXTER

Plaintiffs

- and –

THE ATTORNEY GENERAL OF CANADA

Defendant

- and –

THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA, THE SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE DIOCESE OF ATHABASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE SYNOD OF THE DIOCESE OF BRITISH COLUMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF CARIBOO, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE DIOCESE OF MOOSONEE, THE SYNOD OF THE DIOCESE OF WESTMINISTER, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE DIOCESE OF SASKATCHEWAN, THE SYNOD OF THE DIOCESE OF YUKON, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE PRESBYTERIAN CHURCH IN CANADA, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH IN CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE CANADIAN CONFERENCE OF CATHOLIC BISHOPS, THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF CALGARY, THE ROMAN CATHOLIC BISHOP OF KAMLOOPS, THE ROMAN

CATHOLIC BISHOP OF THUNDER BAY, THE ROMAN CATHOLIC ARCHBISHOP OF VANCOUVER, THE ROMAN CATHOLIC BISHOP OF VICTORIA, THE ROMAN CATHOLIC BISHOP OF NELSON, THE CATHOLIC EPISCOPAL CORPORATION OF WHITEHORSE, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE GROUARD – McLENNAN, THE CATHOLIC ARCHDIOCESE OF EDMONTON, LA DIOCESE DE SAINT-PAUL, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF MACKENZIE, THE ARCHIEPISCOPAL CORPORATION OF REGINA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF KEEWATIN, THE ROMAN CATHOLIC ARCHIEPISCOPAL CORPORATION OF WINNIPEG, LA CORPORATION ARCHIEPISCOPALE CATHOLIQUE ROMAINE DE SAINT-BONIFACE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF THE DIOCESE OF SAULT STE. MARIE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF JAMES BAY, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HUDSON'S BAY, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE PRINCE ALBERT, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF PRINCE RUPERT, THE ORDER OF THE OBLATES OF MARY IMMACULATE IN THE PROVINCE OF BRITISH COLUMBIA, THE MISSIONARY OBLATES OF MARY IMMACULATE – GRANDIN PROVINCELES PERES MONTFORTAINS (also known as THE COMPANY OF MARY), JESUIT FATHERS OF UPPER CANADA, THE MISSIONARY OBLATES OF MARY IMMACULATE – PROVINCE OF ST. JOSEPH, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (also known as LES REVERENDS PERES OBLATS DE L'IMMACULEE CONCEPTION DE MARIE), THE OBLATES OF MARY IMMACULATE, ST. PETER'S PROVINCE, LES REVERENDS PERES OBLATS DE MARIE IMMACULEE DES TERRITOIRES DU NORD OUEST, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (PROVINCE U CANADA – EST), THE SISTERS OF SAINT ANNE, THE SISTERS OF INSTRUCTION OF THE CHILD JESUS (also known as THE SISTERS OF THE CHILD JESUS), THE SISTERS OF CHARITY OF PROVIDENCE OF WESTERN CANADA, THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERT (also known as THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERTA), THE SISTERS OF CHARITY (GREY NUNS) OF THE NORTHWEST TERRITORIES, THE SISTERS OF CHARITY (GREY NUNS) OF MONTREAL (also known as LES SOEURS DE LA CHARITÉ (SOEURS GRISES) DE I'HÔPITAL GÉNÉRAL DE MONTREAL), THE GREY SISTERS NICOLET, THE GREY NUNS OF MANITOBA INC. (also known as LES SOEURS GRISES DU MANITOBA INC.), THE SISTERS OF ST. JOSEPH OF SAULT STE. MARIE, LES SOEURS DE SAINT-JOSEPH DE ST-HYACINTHE and INSTITUT DES SOEURS DE SAINT-JOSEPH DE SAINT-HYACINTHE LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE (also known as LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE) DE NICOLET AND THE SISTERS OF ASSUMPTION, LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE DE L'ALBERTA, THE DAUGHTERS OF THE HEART OF MARY (also known as LA SOCIETE DES FILLES DU COEUR DE MARIE and THE DAUGHTERS OF THE IMMACULATE HEART OF MARY), MISSIONARY OBLATE SISTERS OF SAINT-BONIFACE (also known as

MISSIONARY OBLATES OF THE SACRED HEART AND MARY IMMACULATE, or LES MISSIONAIRES OBLATS DE SAINT-BONIFACE), LES SOEURS DE LA CHARITE D'OTTAWA (SOEURS GRISES DE LA CROIX) (also known as SISTERS OF CHARITY OF OTTAWA - GREY NUNS OF THE CROSS), SISTERS OF THE HOLY NAMES OF JESUS AND MARY (also known as THE RELIGIOUS ORDER OF JESUS AND MARY and LES SOEURS DE JESUS-MARIE), THE SISTERS OF CHARITY OF ST. VINCENT DE PAUL OF HALIFAX (also known as THE SISTERS OF CHARITY OF HALIFAX), LES SOEURS DE NOTRE DAME AUXILIATRICE, LES SOEURS DE ST. FRANCOIS D'ASSISE, SISTERS OF THE PRESENTATION OF MARY (SOEURS DE LA PRESENTATION DE MARIE), THE BENEDICTINE SISTERS, INSTITUT DES SOEURS DU BON CONSEIL, IMPACT NORTH MINISTRIES, THE BAPTIST CHURCH IN CANADA

Third Parties

Proceeding under the *Class Proceedings Act, 1992*

JOINT MOTION RECORD
(Certification, Settlement Approval and Approval of Legal Fees)

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D. Exhibit "D" to the Affidavit of Chief Larry Phillip Fontaine [*The Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools*]

E. Exhibit "E" to the Affidavit of Chief Larry Phillip Fontaine [Political Agreement dated May 30, 2005]

F. Exhibit "F" to the Affidavit of Chief Larry Phillip Fontaine [Assembly of First Nations' Resolutions]

G. Exhibit "G" to the Affidavit of Chief Larry Phillip Fontaine [Final Conference Report of the Assembly of First Nations' Residential Schools July 2005 Conference]

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B. Exhibit "B" to the Affidavit of Richard Courtis [List of Members of the National Consortium]

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H. Exhibit "H" to the Affidavit of Richard Courtis [Reasons of Justice Winkler dated May 30, 2005]

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J. Exhibit "J" to the Affidavit of Richard Courtis [Proposed Application Form to be Completed by Eligible CEP Recipients]

K. Exhibit "K" to the Affidavit of Richard Courtis [Letter from Ms. Coughlan to Mr. Faulds, dated May 23, 2006]

L. Exhibit "L" to the Affidavit of Richard Courtis [Expert Opinion from Lalive, Attorneys-at-Law, dated November 2, 2005]

M. Exhibit "M" to the Affidavit of Richard Courtis [December 2005 Report of Siggner & Associates]

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11. **Affidavit of Donald Belcourt**

A. Exhibit "A" to the Affidavit of Donald Belcourt [Case Management Order of the Honourable Mr. Justice T.F. McMahon, dated January 8, 2000]

B. Exhibit "B" to the Affidavit of Donald Belcourt [Alberta Law Reform Institute Class Actions Final Report No. 85, December 2000]

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12. **Affidavit Nora Bernard**

13. **Affidavit of Brian O'Reilly**

14. **Affidavit of Bonnie Reid**

15. **Affidavit of Doug Keshen**

VOLUME VI – Notice Program

16. **Affidavit of Todd Hilsee (May 17, 2006)**

Exhibit "A" to the Affidavit of Todd Hilsee (May 17, 2006) [Notice Plan]

17. **Affidavit of Todd Hilsee (June 29, 2006)**

18. **Affidavit of Todd Hilsee (July 26, 2006)**

19. **Affidavit of Kerry Eaton**

A. Attachment "A" to the Affidavit of Kerry Eaton [Weekly Report No. 01-06]

B. Attachment "B" to the Affidavit of Kerry Eaton [Weekly Report No. 02-06]

C. Attachment "C" to the Affidavit of Kerry Eaton [Weekly Report No. 03-06]

20. **Order of the Honourable Mr. Justice Warren K. Winkler, dated May 24, 2006**

VOLUME VII – The Church Defendants

21. **Affidavit of James Bruce Boyles [Anglican Church]**

A. Exhibit "A" to the Affidavit of James Bruce Boyles (Anglican Entities) [Indian Residential Schools Related to Anglican Entities]

B. Exhibit "B" to the Affidavit of James Bruce Boyles (Anglican Entities) [Settlement Agreement dated March 11, 2003]

22. **Affidavit of James Vincent Scott (United Church Entities)**

A. Exhibit "A" to the Affidavit of James Vincent Scott (United Church Entities) [Indian Residential Schools Related to the United Church]

23. **Affidavit of Stephen Kendall (Presbyterian Entities)**

A. Exhibit "A" to the Affidavit of Stephen Kendall (Presbyterian Entities) [Indian Residential Schools Related to the Church]

B. Exhibit "B" to the Affidavit of Stephen Kendall (Presbyterian Entities) [Settlement Agreement dated February 13, 2003]

78. **Affidavit of Sister Bernadette Poirer s.g.m. (Catholic)**

79. **Affidavit of Father Jacques Gagné (Catholic)**

80. **Affidavit of Archbishop Joseph Edmond Emilius Goulet (Catholic)**

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93. **Affidavit of Sister Suzanne Bridet (Catholic)**

94. **Affidavit of Sister Diane Beaudoin (Catholic)**

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B. Exhibit "B" to the Affidavit of Darcy Merkur [Verification Agreement]

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98. **Affidavit of Laura Cabott**

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BETWEEN:

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Defendant

- and –

THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA, THE SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE DIOCESE OF ATHABASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE SYNOD OF THE DIOCESE OF BRITISH COLUMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF CARIBOO, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE DIOCESE OF MOOSONEE, THE SYNOD OF THE DIOCESE OF WESTMINISTER, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE DIOCESE OF SASKATCHEWAN, THE SYNOD OF THE DIOCESE OF YUKON, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE PRESBYTERIAN CHURCH IN CANADA, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH IN CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE CANADIAN CONFERENCE OF CATHOLIC BISHOPS, THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF CALGARY, THE ROMAN CATHOLIC BISHOP OF KAMLOOPS, THE ROMAN CATHOLIC BISHOP OF THUNDER BAY, THE ROMAN CATHOLIC ARCHBISHOP OF VANCOUVER, THE ROMAN CATHOLIC BISHOP OF VICTORIA, THE ROMAN CATHOLIC BISHOP OF NELSON, THE CATHOLIC EPISCOPAL CORPORATION OF WHITEHORSE, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE GROUARD – McLENNAN, THE CATHOLIC ARCHDIOCESE OF EDMONTON, LA DIOCESE DE SAINT-PAUL, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF

MACKENZIE, THE ARCHIEPISCOPAL CORPORATION OF REGINA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF KEEWATIN, THE ROMAN CATHOLIC ARCHIEPISCOPAL CORPORATION OF WINNIPEG, LA CORPORATION ARCHIEPISCOPALE CATHOLIQUE ROMAINE DE SAINT-BONIFACE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF THE DIOCESE OF SAULT STE. MARIE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF JAMES BAY, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HUDSON'S BAY, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE PRINCE ALBERT, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF PRINCE RUPERT, THE ORDER OF THE OBLATES OF MARY IMMACULATE IN THE PROVINCE OF BRITISH COLUMBIA, THE MISSIONARY OBLATES OF MARY IMMACULATE – GRANDIN PROVINCELES PERES MONTFORTAINS (also known as THE COMPANY OF MARY), JESUIT FATHERS OF UPPER CANADA, THE MISSIONARY OBLATES OF MARY IMMACULATE – PROVINCE OF ST. JOSEPH, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (also known as LES REVERENDS PERES OBLATS DE L'IMMACULEE CONCEPTION DE MARIE), THE OBLATES OF MARY IMMACULATE, ST. PETER'S PROVINCE, LES REVERENDS PERES OBLATS DE MARIE IMMACULEE DES TERRITOIRES DU NORD OUEST, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (PROVINCE U CANADA – EST), THE SISTERS OF SAINT ANNE, THE SISTERS OF INSTRUCTION OF THE CHILD JESUS (also known as THE SISTERS OF THE CHILD JESUS), THE SISTERS OF CHARITY OF PROVIDENCE OF WESTERN CANADA, THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERT (also known as THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERTA), THE SISTERS OF CHARITY (GREY NUNS) OF THE NORTHWEST TERRITORIES, THE SISTERS OF CHARITY (GREY NUNS) OF MONTREAL (also known as LES SOEURS DE LA CHARITÉ (SOEURS GRISES) DE I'HÔPITAL GÉNÉRAL DE MONTREAL), THE GREY SISTERS NICOLET, THE GREY NUNS OF MANITOBA INC. (also known as LES SOEURS GRISES DU MANITOBA INC.), THE SISTERS OF ST. JOSEPH OF SAULT STE. MARIE, LES SOEURS DE SAINT-JOSEPH DE ST-HYACINTHE and INSTITUT DES SOEURS DE SAINT-JOSEPH DE SAINT-HYACINTHE LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE (also known as LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE) DE NICOLET AND THE SISTERS OF ASSUMPTION, LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE DE L'ALBERTA, THE DAUGHTERS OF THE HEART OF MARY (also known as LA SOCIETE DES FILLES DU COEUR DE MARIE and THE DAUGHTERS OF THE IMMACULATE HEART OF MARY), MISSIONARY OBLATE SISTERS OF SAINT-BONIFACE (also known as MISSIONARY OBLATES OF THE SACRED HEART AND MARY IMMACULATE, or LES MISSIONAIRES OBLATS DE SAINT-BONIFACE), LES SOEURS DE LA CHARITE D'OTTAWA (SOEURS GRISES DE LA CROIX) (also known as SISTERS OF CHARITY OF OTTAWA - GREY NUNS OF THE CROSS), SISTERS OF THE HOLY NAMES OF JESUS AND MARY (also known as THE RELIGIOUS ORDER OF JESUS AND MARY and LES SOEURS DE JESUS-MARIE), THE SISTERS OF CHARITY OF ST. VINCENT DE PAUL OF HALIFAX (also known as THE SISTERS OF CHARITY OF HALIFAX), LES SOEURS

DE NOTRE DAME AUXILIATRICE, LES SOEURS DE ST. FRANCOIS D'ASSISE, SISTERS OF THE PRESENTATION OF MARY (SOEURS DE LA PRESENTATION DE MARIE), THE BENEDICTINE SISTERS, INSTITUT DES SOEURS DU BON CONSEIL, IMPACT NORTH MINISTRIES, THE BAPTIST CHURCH IN CANADA

Third Parties

Proceeding under the *Class Proceedings Act, 1992*

PROCEEDING UNDER the following legislation, as appropriate:

(a) In the Province of Alberta: the *Class Proceedings Act*, S.A. 2003, c. C-16.5;

(b) In the Province of British Columbia: the *Class Proceedings Act*, R.S.B.C. 1996, c.50;

(c) In the Province of Manitoba: *The Class Proceedings Act*, C.C.S.M. c. C130;

(d) In the Provinces of Newfoundland and Labrador, Prince Edward Island, New Brunswick, Nova Scotia and Ontario: the *Class Proceedings Act, 1992 (Ontario)*, S.O. 1992, c. 6;

(e) In The Northwest Territories: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. 010-96;

(f) In Nunavut: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg 010-96, as adopted by the Territory by operation of Section 29 of the *Nunavut Act*, S.C. 1993, c. 28.

(g) In the Province of Ontario: the *Class Proceedings Act, 1992*, S.O. 1992, c. 6;

(h) In the Province of Québec: Articles 999–1051 of the *Code of Civil Procedure* (Québec);

(i) In the Province of Saskatchewan: *The Class Actions Act*, S.S. 2001, c.C-12.01; and

(j) In the Yukon Territory: Rule 5(11) of the *Supreme Court Rules (British Columbia.)* B.C. Reg. 220/90 as adopted by the Territory by operation Section 38 of the *Judicature Act (Yukon)* R.S.Y. 2002, c. 128.

NOTICE OF MOTION
(Amendment of Pleadings, Certification, Settlement Approval & Fee Approval)

(Returnable August 29, 30 and 31, 2006)

THE PLAINTIFFS will make a motion to the Court commencing on the 29th of August, 2006, at 10:00 a.m., before the Honourable Mr. Justice Winkler, at the Court House, 361 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: the motion will be heard orally.

THE MOTION IS FOR:

(a) **AN ORDER** that leave be granted to amend this claim in the form attached as Schedule "A" as an Amended Statement of Claim (without underlining) and that the title of proceedings be hereby so amended, as in the form of order attached at Schedule "B", including the addition of the third parties as party defendants;

(b) **AN ORDER** approving the settlement of this class proceeding pursuant to the terms of the Settlement Agreement dated May 10th, 2006, (the "Agreement") included in the Motion Record herein;

(c) **AN ORDER** approving the provisions of the Agreement with respect to legal fees of Plaintiffs' Counsel;

(d) **AN ORDER** that the legal fee provisions in the Agreement with respect to Plaintiffs' Counsel are fair and reasonable;

(e) **A DECLARATION, ORDER AND JUDGMENT** that the settlement pursuant to the Agreement is fair, reasonable and in the best interests of the class members;

(f) **AN ORDER** that the within action be dismissed upon implementation of the Agreement, without costs, and with prejudice, and that such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof;

(g) such further and other Order as this Honourable Court may deem just and appropriate in the circumstances.

THE GROUNDS FOR THE MOTION ARE:

(a) this action is one of several proposed class proceedings which were commenced across Canada between June 5, 2000 and November 22, 2005;

(b) the parties propose that these proceedings, (excepting any federal court proceedings), be amalgamated into a single identical statement of claim, proceeding as a proposed class proceeding in the jurisdictions of Alberta, British Columbia, Manitoba, the Northwest Territories, Nunavut, Ontario, Quebec, Saskatchewan and the Yukon;

(c) the action was brought on behalf of all individuals who resided at an Indian Residential School anywhere in Canada until 1997;

(d) the claims in the action have been vigorously defended at all stages;

(e) in an effort to provide a fair, just and lasting resolution to the Indian Residential Schools legacy in Canada, in May 2005, the Honourable Mr. Frank Iacobucci was appointed as the Federal Representative of the Government of Canada to negotiate with key stakeholders across Canada to develop an agreement for a fair and lasting resolution of all residential schools litigation;

(f) between July 2005 and November 20, 2005, interested parties in Canada engaged in extensive arms' length negotiations which culminated in an Agreement in Principle being reached on November 20, 2005;

(g) the Agreement in Principle received Cabinet approval on November 22, 2005;

(h) the Agreement in Principle was followed and superceded by the Agreement which was approved by the Cabinet on May 10, 2006, and has been executed by the parties;

(i) the Agreement stipulates that it must be approved by the courts in each jurisdiction in its entirety, and without amendment or variation, failing which the Agreement will be of no force and effect;

(j) the parties to this proceeding are therefore seeking certification of this proceeding as a class proceeding and approval of the settlement in all jurisdictions;

(k) the Agreement provides for, amongst other things, a common experience payment which is available to all living individuals in Canada who resided at an Indian Residential School;

(l) the amount of the common experience payment available to each survivor is based on his/her length of residence at an Indian Residential School and may range between $10,000.00 and $50,000.00;

(m) the Agreement also provides for an Independent Assessment Process for individual survivors to seek compensation over and above the common experience payment for serious physical and sexual abuse claims;

(n) the Agreement further provides for the establishment of a Truth and Reconciliation Commission, commemoration initiatives and an endowment to the Aboriginal Healing Foundation, in the collective amount of more than $200,000,000.00, to address the harms suffered by the Survivor Class, the Family Class and the Deceased Class;

(o) the proposed settlement of this action is fair, reasonable and in the best interests of the class;

(p) the following legislative provisions, as appropriate:

(a) in the Province of Alberta: Part 1 and Part 3, Division 3 of the *Class Proceedings Act*, S.A. 2003, c. 16.5;

(b) in the Province of British Columbia: Part 2 and Part 4, Division 3 of the *Class Proceedings Act*, R.S.B.C. 1996, c. 50;

(c) in the Province of Manitoba: Part 2 and Part 4, Division 3 of the *Class Proceedings Act*, C.C.S.M. c. C130;

(d) in the Provinces of Newfoundland and Labrador, Prince Edward Island , New Brunswick, Nova Scotia and Ontario: Sections 5 and 29 of the *Class Proceedings Act, 1992 (Ontario)*, S.O. 1992, c. 6;

(e) in The Northwest Territories: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. 010-96; and

(f) in Nunavut: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg 010-96, as adopted by the Territory by operation of Section 29 of the *Nunavut Act*, S.C. 1993, c. 28.

(g) In the Province of Ontario: the *Class Proceedings Act, 1992*, S.O. 1992, c. 6;

(h) in the Province of Québec: Articles 999-1051 of the *Civil Code of Procedure*;

(i) in the Province of Saskatchewan: Part II and Part VI of *The Class Actions Act,* S.S. 2001, c. C-12.01;

(j) in the Yukon Territory: Rule 5(11) of the *Supreme Court Rules (British Columbia.)* B.C. Reg. 220/90 as adopted by the Territory by operation Section 38 of the *Judicature Act (Yukon)* R.S.Y. 2002, c. 128.

(q) the following *Rules of Civil Procedure* or *Rules of Court*, as appropriate:

(a) in the Province of Alberta: Rules 38, 42 and 135 of the *Alberta Rules of Court*, Alta. Reg. 390/68;

(b) in the Province of British Columbia: Rules 5(11), 15(5) and 24 of the *Supreme Court Rules*, B.C. Reg. 221/09, as amended;

(c) in the Province of Manitoba: Rule 12 of the *Court of Queen's Bench Rules*, Man. Reg. 553/88;

(d) in the Provinces of Newfoundland and Labrador, Prince Edward Island, New Brunswick, Nova Scotia and Ontario: Rules 12 and 26.02 of the *Rules of Civil Procedure (Ontario)*, R.R.O. 1990, Reg. 190;

(e) in The Northwest Territories: Rules 58, 62, 132, 133 and 136 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. 010-96; and

(f) in Nunavut: Rules 58, 62, 132, 133 and 136 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. 010-96, as adopted by the Territory by operation of Section 29 of the *Nunavut Act*, S.C. 1993, c. 28;

(g) in the Province of Québec: Articles 67,199, 200, and 999-1051 of the *Civil Code of Procedure*;

(h) in the Province of Saskatchewan: Rules 37(1), 165 and 171, and Part XI of the *Queen's Bench Rules;* and

(i) in the Yukon Territory: Rule 5(11), 15(5) and 24 of the *Supreme Court Rules (British Columbia)* as adopted by the Territory by operation Section 38 of the *Judicature Act (Yukon)* R.S.Y. 2002, c. 128;

(r) such further and other grounds that Counsel may advise and this Honourable Court may deem just and appropriate in the circumstances.

THE FOLLOWING DOCUMENTARY MATERIAL will be used at the hearing of the Motion:

(a) The Agreement dated May 10, 2006;

(b) such further and other material as counsel may advise and this Honourable Court may permit.

July 31, 2006

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Counsel for the Catholic Entities and Agent for Service for other Religious Entity Defendants.

SCHEDULE "A"

Court File No. 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

LARRY PHILIP FONTAINE in his personal capacity and in his capacity as the Executor of the estate of Agnes Mary Fontaine, deceased, MICHELLINE AMMAQ, PERCY ARCHIE, CHARLES BAXTER SR., ELIJAH BAXTER, EVELYN BAXTER, DONALD BELCOURT, NORA BERNARD, JOHN BOSUM, JANET BREWSTER, RHONDA BUFFALO, ERNESTINE CAIBAIOSAI-GIDMARK, MICHAEL CARPAN, BRENDA CYR, DEANNA CYR, MALCOLM DAWSON, ANN DENE, JAMES FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Mary Fontaine, deceased, VINCENT BRADLEY FONTAINE, DANA EVA MARIE FRANCEY, PEGGY GOOD, FRED KELLY, ROSEMARIE KUPTANA, ELIZABETH KUSIAK, THERESA LAROCQUE, JANE McCALLUM, CORNELIUS McCOMBER, VERONICA MARTEN, STANLEY THOMAS NEPETAYPO, FLORA NORTHWEST, NORMAN PAUCHEY, CAMBLE QUATELL, ALVIN BARNEY SAULTEAUX, CHRISTINE SEMPLE, DENNIS SMOKEYDAY, KENNETH SPARVIER, EDWARD TAPIATIC, HELEN WINDERMAN and ADRIAN YELLOWKNEE

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA, THE PRESBYTERIAN CHURCH IN CANADA, THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE EPISCOPAL CORPORATION OF SASKATOON, IMMACULATE HEART COMMUNITY, OMI LACOMBE CANADA INC., THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH THE BAPTIST CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN BAY, THE CANADA IMPACT NORTH MINISTRIES, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE DIOCESE OF SASKATCHEWAN, THE DIOCESE OF THE SYNOD OF CARIBOO, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA , THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE INCORPORATED SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE ANGLICAN CHURCH OF THE DIOCESE OF QUEBEC, THE SYNOD OF THE DIOCESE OF ATHBASCA,

THE SYNOD OF THE DIOCESE OF BRANDON, THE ANGLICAN SYNOD OF THE DIOCESE OF BRITISH COLOMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE SYNOD OF THE DIOCESE OF NEW WESTMINISTER, THE SYNOD OF THE DIOCESE OF YUKON, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE BOARD OF HOME MISSIONS AND SOCIAL SERVICE OF THE PRESBYTERIAN CHURCH OF CANADA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION, THE SISTERS OF SAINT ANNE, LES MISSIONAIRES OBLATS DE SAINT BONIFACE and THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA

Defendants

Proceeding under the *Class Proceedings Act, 1992*

PROCEEDING UNDER the following legislation, as appropriate:

(a) In the Province of Québec: Articles 999 – 1051 of the *Code of Civil Procedure (Québec);*

(b) In the Provinces of Newfoundland and Labrador, Prince Edward Island, New Brunswick, Nova Scotia and Ontario: the *Class Proceedings Act, 1992 (Ontario)* S.O. 1992, c. 6;

(c) In the Province of Manitoba: *The Class Proceedings Act*, C.C.S.M. c. C130;

(d) In the Province of Saskatchewan: *The Class Actions Act*, S.S. 2001, c.C-12.01;

(e) In the Province of Alberta: the *Class Proceedings Act,* S.A. 2003, c. C-16.5;

(f) In the Province of British Columbia: the *Class Proceedings Act*, R.S.B.C. 1996, c.50;

(g) In the Yukon Territory: Rule 5(11) of the *Supreme Court Rules (British Columbia)* B.C. Reg. 220/90 as adopted by the Territory by operation Section 38 of the Judicature *Act (Yukon)* R.S.Y. 2002, c. 128;

(h) In The Northwest Territories: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories,* N.W.T. Reg. 010-96; and

(i) In Nunavut: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories,* N.W.T. Reg 010-96, as adopted by the Territory by operation of Section 29 of the *Nunavut Act*, S.C. 1993, c. 28.

AMENDED STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the rules of court, serve it on the Plaintiffs' lawyer or, where the Plaintiffs do not have a lawyer, serve it on the Plaintiffs, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the rules of court. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

DATE: *Issued by:* _____

[insert court address here]

TO:	THE ATTORNEY GENERAL OF CANADA Deputy Minister of Justice Justice Building 239 Wellington Street Ottawa, ON K1A 0H8 On its own behalf and on behalf of all of the Defendants
AND TO:	The General Synod of the Anglican Church of Canada 80 Haydon Street Toronto, ON M4Y 3G2

AND TO:	The Missionary Society of the Anglican Church of Canada 80 Haydon Street Toronto, ON M4Y 3G2
AND TO:	The Incorporated Synod of the Diocese of Algoma 619 Wellington St. East, Box 1168 Sault Ste. Marie, ON P6A 5N7 Phone: (705) 256-5061 or (705) 256-2791 Fax: (705) 946-1860
AND TO:	The Synod of the Diocese of Athabasca 9720 – 100 Avenue P.O. Box 6868 Peace River, AB T8S 1S6 Phone: (780) 624-2767 Fax: (780) 624-2365
AND TO:	The Synod of the Diocese of Brandon 341 -13 Street Box 21009 W.E.P.O. Brandon, MB R7B 3W8 Phone: (204) 727-7550 Fax: (204) 727-4135
AND TO:	The Anglican Synod of the Diocese of British Columbia 900 Vancouver St. Victoria, BC V8V 3V7 Phone: (250) 386-7781 Fax: (250) 386-4013
AND TO:	The Synod of the Diocese of Calgary Suite 560, 1207 - 11th Ave. SW Calgary, AB T3C 0M5 Phone: (403) 243-3673 Fax: (403) 243-2182
AND TO:	The Synod of the Diocese of Cariboo 1505 Fifth Avenue Prince George, BC V2L 3L9

AND TO:	The Incorporated Synod of the Diocese of Huron 190 Queens Ave. London, ON N6A 6H7 Phone: (519) 434-6893 Fax: (519) 679-4151
AND TO:	The Synod of the Diocese of Keewatin P.O. Box 567 915 Ottawa St. Keewatin, ON P0X 1C0 Phone: (807) 547-3353 Fax: (807) 547-3356
AND TO:	The Synod of the Diocese of New Westminster Suite 580, 401 West Georgia St. Vancouver, BC V6B 5A1 Phone: (604) 684-6306 Fax: (604) 684-7017
AND TO:	The Synod of the Diocese of Qu'Appelle 1501 College Ave. Regina, SK S4P 1B8 Phone: (306) 522-1608 Fax: (306) 352-6808
AND TO: AND TO:	The Diocese of Saskatchewan 1308 Fifth Avenue East Prince Albert, SK S6V 2H7 Phone: (306) 763-2455 or (306) 764-1171 Fax: (306) 764-5172 The Synod of the Anglican Church of the Diocese of Quebec Church House, 31 Rue des Jardins Quebec City, Quebec G1R 4L8
AND TO:	The Synod of the Diocese of Yukon Box 31136 Whitehorse, YT Y1A 5P7 Phone: (867) 667-7746 Fax: (867) 667-6125

AND TO:	The Company for the Propagation of the Gospel in New England (also known as the New England Company) Bower House, Clavering, Saffron Walden Essex UK CB11 4QT Phone: 20 7717 5400 Fax: 01799 550169
AND TO:	The Presbyterian Church in Canada 50 Wynford Drive Don Mills, ON M3C 1J7 Phone: (416) 441-1111 or Toll Free: (800) 619-7301 Fax: (416) 441-2825
AND TO:	The Trustee Board of the Presbyterian Church in Canada 50 Wynford Drive Don Mills, ON M3C 1J7 Phone: (416) 441-1111 or Toll Free: (800) 619-7301 Fax: (416) 441-2825
AND TO:	The Foreign Mission of the Presbyterian Church in Canada 50 Wynford Drive Don Mills, ON M3C 1J7 Phone: (416) 441-1111 or Toll Free: (800) 619-7301 Fax: (416) 441-2825
AND TO:	Board of Home Missions and Social Services of the Presbyterian Church in Canada 50 Wynford Drive Don Mills, ON M3C 1J7 Phone: (416) 441-1111 or Toll Free: (800) 619-7301 Fax: (416) 441-2825
AND TO:	The Women's Missionary Society of the Presbyterian Church in Canada 50 Wynford Drive Don Mills, ON M3C 1J7 Phone: (416) 441-1111 or Toll Free: (800) 619-7301 Fax: (416) 441-2825

AND TO:	The United Church of Canada General Council Officer, Residential Schools Steering Committee 300 - 3250 Bloor Street West Toronto, ON M8X 2Y4 Telephone: (416) 231-5931 Voice Mail: (416) 231-7680 Fax: (416) 231-3103
AND TO:	The Board of Home Missions of the United Church of Canada General Council Officer, Residential Schools Steering Committee 300 - 3250 Bloor Street West Toronto, ON M8X 2Y4 Telephone: (416) 231-5931 Voice Mail: (416) 231-7680 Fax: (416) 231-3103
AND TO:	The Women's Missionary Society of the United Church of Canada General Council Officer, Residential Schools Steering Committee 300 - 3250 Bloor Street West Toronto, ON M8X 2Y4 Telephone: (416) 231-5931 Voice Mail: (416) 231-7680 Fax: (416) 231-3103
AND TO:	The Methodist Church of Canada
AND TO:	The Missionary Society of the Methodist Church of Canada (also known as the Methodist Missionary Society of Canada)
AND TO:	The Roman Catholic Episcopal Corporation
AND TO:	The Sisters of Saint Anne 1550 Begbie Street Victoria, BC V8R 1K8 Phone: (604) 592-3133/721-0888 Fax: (604) 592-0234

AND TO:	The Daughters of the Heart of Mary (also known as La Societe des Filles du Coeur de Marie and the Daughters of the Immaculate Heart of Mary) 4122, avenue de Lorimier Montréal, QC H2K 3X7 Phone: (514) 522-9447/593-6434 Fax: (514) 593-9513
AND TO:	Missionary Oblate Sisters of Saint-Boniface (also known as Missionary Oblates of the Sacred Heart and Mary Immaculate, or Les Missionaires Oblats de Saint-Boniface) 601, rue Aulneau Winnipeg, MB R2H 2V5 Phone: (204) 233-7287/237-8802 Fax: (204) 233-7844
AND TO:	Impact North Ministries 1 Irwin Drive P.O. Box 315 Red Lake, ON P0V 2M0 Phone: (807) 727-2291 Fax: (807) 727-2141

CLAIM

A. OVERVIEW OF THIS CLAIM

1. This claim is an amalgamation of approximately nineteen (19) different putative class action statements of claim brought in various jurisdictions across Canada. This claim represents the distillation of all issues related to Residential Schools' attendance which the parties to this proceeding seek to address, in substantially identical format, in each of the Forums.

2. The amalgamation of the various claims, which has been achieved by consent, and the desire to address them in a uniform fashion on behalf of all Class Members, has arisen out of an extraordinary and unprecedented negotiation to address the unique issues related to Residential Schools.

3. In addition to the class actions, approximately 14,000 individual actions have been commenced against the Defendants in various jurisdictions across Canada, representing a significantly greater number of individual claims and claimants, which has placed an extraordinary burden on Canada's judicial systems and resources.

4. Amalgamation of the various claims, and the effort to subsume essentially all existing claims into a single, standard class action claim to be brought forward in each of the Forums represents an efficient yet regionally sensitive method of fully and fairly addressing the concerns of the Plaintiffs and the proposed Classes.

5. Accordingly, the Plaintiffs, with the consent of the Defendants, are filing this amended claim in substantially identical form in each of the Forums with a view to seeking and obtaining certification in each of the Forums on identical terms.

DEFINITIONS

6. The following definitions apply for the purposes of this Claim:

(a) "Aboriginal", "Aboriginal People(s)" or "Aboriginal Person(s)" means a person whose rights are recognized and affirmed by the *Constitution Act*, 1982, s. 35, being Schedule B to the *Canada Act* 1982 (UK), 1982. c. 11;

(b) "Aboriginal Right(s)" means rights recognized and affirmed by the *Constitution Act*, 1982, s. 35, being Schedule B to the *Canada Act* 1982 (UK), 1982. c. 11;

(c) "Act" means the Indian Act, R.S.C. 1985, c. I-5;

(d) "AFN" means the National Indian Brotherhood and the Assembly of First Nations;

(e) "Agents" mean the servants, contractors, agents, officers and employees of Canada and the operators, managers, administrators and teachers and staff of each of the Residential Schools;

(f) "Canada" means the Defendant, the Government of Canada as represented in this proceeding by the Attorney General of Canada;

(g) "Churches" mean the religious entity or religious organization Defendants, enumerated at Schedule "A" attached hereto;

(h) "Claim" means this Fresh as Amended Statement of Claim;

(i) "Class" or "Class Members" means all members of the Survivor Class, the Deceased Class and the Family Class;

(j) "Class Period" means January 1, 1920 to December 31, 1997;

(k) "Class Proceedings Legislation" or "CPL" " means:

(i) in respect of the Alberta Court of Queen's Bench, the *Class Proceedings Act*, S.A. 2003, c. C-16.5;

(ii) in respect of the British Columbia Supreme Court, the *Class Proceedings Act*, R.S.B.C. 1996, c.50;

(iii) in respect of the Manitoba Court of Queen's Bench, the *Class Proceedings Act*, C.C.S.M. c. C130;

(iv) in respect of the Supreme Court of the Northwest Territories, Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. 010-96;

(v) in respect of the Nunavut Court of Justice: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg 010-96, as adopted by the Territory by operation of Section 29 of the *Nunavut Act*, S.C. 1993, c. 28;

(vi) in respect of the Ontario Superior Court of Justice, the Class Proceedings Act, 1992 (Ontario) S.O. 1992, c. 6;

(vii) the Province of Québec, Articles 999–1051 of the *Civil Code of Procedure (Québec)*;

(viii) in respect of the Saskatchewan Court of Queen's Bench, the *Class Actions Act,* S.S. 2001, c.C-12.01;

(ix) in respect of Supreme Court of the Yukon Territory: Rule 5(11) of the *Supreme Court Rules (British Columbia)* B.C. Reg. 220/90 as adopted by the Territory by operation Section 38 of the *Judicature Act (Yukon)* R.S.Y. 2002, c. 128;

(l) "Cultural, Linguistic and Social Damage" means the damage or harm caused by the creation and implementation of Residential Schools and Residential Schools Policy to the cultural, linguistic, spiritual and social customs, practices and way of life and to community and individual security and well being of Aboriginal Persons;

(m) "Deceased Class" means all persons who resided at a Residential School in Canada between 1920 and 1997, who died before May 30, 2005, and who were, at their date of death, residents of

(i) Alberta, for the purposes of the Alberta Court of Queen's Bench;

(ii) British Columbia, for the purposes of the British Columbia Supreme Court;

(iii) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

(iv) the Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories;

(v) Nunavut, for the Nunavut Court of Justice;

(vi) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

(vii) Québec, for the purposes of the Quebec Superior Court;

(viii) Saskatchewan, for the purposes of the Saskatchewan Court of Queen's Bench;

(ix) Yukon, for the purposes of the Supreme Court of the Yukon Territory;

but excepting Excluded Persons.

(n) "Excluded Persons" means all persons who attended the Mohawk Institute Residential School in Brantford, Ontario, between 1922 and 1969, and their parents, siblings, spouses and children;

(o) "Family Class" means:

(i) the spouse, child, grandchild, parent, grandparent or sibling of a Survivor Class Member;

(ii) the spouse of a child, grandchild, parent, grandparent or sibling of a Survivor Class Member;

(iii) a former spouse of a Survivor Class Member;

(iv) a child or other lineal descendent of a grandchild of a Survivor Class Member;

(v) a person of the same or opposite sex to a Survivor Class Member who cohabited for a period of at least one year with that Survivor Class Member immediately before his or her death;

(vi) a person of the same or opposite sex to a Survivor Class Member who was cohabiting with that Survivor Class Member at the date of his or her death and to whom that Survivor Class Member was providing support or was under a legal obligation to provide support on the date of his or her death;

(vii) any other person to whom a Survivor Class Member was providing support for a period of at least three years immediately prior to his or her death; and,

(viii) such other persons as the Court recognizes or directs,

and who, as of the date hereof, are resident in:

(i) Alberta, for the purposes of the Alberta Court of Queen's Bench;

(ii) British Columbia, for the purposes of the British Columbia Supreme Court;

(iii) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

(iv) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories;

(v) Nunavut, for the purposes of the Nunavut Court of Justice; and

(vi) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

(vii) Québec, for the purposes of the Quebec Superior Court;

(viii) Saskatchewan, for the purposes of the Court of Queen's Bench for Saskatchewan;

(ix) Yukon, for the purposes of Supreme Court of the Yukon Territory;

but excepting Excluded Persons.

(p) "Forum" means the Alberta Court of Queen's Bench, the British Columbia Supreme Court, the Manitoba Court of Queen's Bench, the Supreme Court of the Northwest Territories, the Nunavut Court of Justice, the Ontario Superior Court of Justice, the Quebec Superior Court, the Court of Queen's Bench for Saskatchewan and the Supreme Court of the Yukon Territory, and "Fora" refers to them all;

(q) "Representative Plaintiffs" means those Plaintiffs referred to in the title of proceedings of the Amended Statement of Claim;

(r) "Residential School(s)" means the following:

(i) institutions listed on List "A" to OIRSRC's Dispute Resolution Process attached to the Agreement as Schedule "E";

(ii) institutions listed in Schedule "F" of the Agreement ("Additional Residential Schools") which may be expanded from time to time in accordance with Article 12.01 of the Agreement; and

(iii) any institution which is determined to meet the criteria set out in Sections 12.01(2) and (3) of the Agreement;

(s) "Residential Schools Policy" means the policy of Canada with respect to Residential Schools;

(t) "Survivor Class" means:

All persons who resided at a Residential School in Canada between January 1, 1920 and December 31, 1997, who are living, or who were living as of May 30, 2005, and who, as of the date hereof, or who, at the date of death resided in:

(i) Alberta, for the purposes of the Alberta Court of Queen's Bench;

(ii) British Columbia, for the purposes of the British Columbia Supreme Court;

(iii) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

(iv) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories;

(v) Nunavut, for the purposes of the Nunavut Court of Justice; and

(vi) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

(vii) Québec, for the purposes of the Quebec Superior Court;

(viii) Saskatchewan, for the purposes of the Court of Queen's Bench for Saskatchewan;

(ix) Yukon, for the purposes of Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

(u) "Treaty Obligations" means those recognized and codified by the *United Nations Convention on the Rights of the Child, the United Nations Genocide Convention, the International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child, Convention Against Torture and Other Civil, Inhuman or Degrading Treatment or Punishment, and Treaties Numbers 1* through *11,* including *the James Bay Treaty, Peace and Friendship Treaties, Upper Canada Treaties, Robinson-Superior Treaty, Robinson-Huron Treaty, the Manitoulin Treaty, Vancouver Island Treaties* and the *Williams Treaties*.

B. RELIEF SOUGHT BY THE PLAINTIFFS AGAINST CANADA

The Survivor Class

7. The Representative Plaintiffs, on their own behalf, and on behalf of the members of the Survivor Class, claim:

(a) an Order certifying this proceeding as a Class Proceeding pursuant to the CPL and appointing them as Representative Plaintiffs for the Survivor Class and any appropriate subgroup thereof;

(b) a Declaration that Canada owed and was in breach of non-delegable, fiduciary, statutory and common law duties to the Plaintiffs and the other Survivor Class Members in relation to the establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members to, obligatory attendance of Survivor Class Members at and support of the Indian Residential School system and the Residential Schools throughout Canada;

(c) a Declaration that Canada was negligent in the establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class

Members to, obligatory attendance of Survivor Class Members at and support of the Residential Schools throughout Canada;

(d) a Declaration that Canada was or is in breach of its statutory duties pursuant to the Act and its Treaty obligations to the Plaintiffs and the other Survivor Class Members as a consequence of its establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members to, obligatory attendance of Survivor Class Members at and support of the Residential Schools throughout Canada;

(e) a Declaration that the Residential Schools Policy and the Residential Schools caused Cultural, Linguistic and Social Damage and irreparable harm to the Survivor Class;

(f) a Declaration that Canada is liable to the Plaintiffs and other Survivor Class Members for the damages caused by its breach of non delegable, fiduciary, statutory and common law duties and for negligence in relation to the establishment, funding, operation, supervision, control maintenance, confinement in, transport of Survivor Class Members to, obligatory attendance of Survivor Class Members at and support of the Residential Schools throughout Canada;

(g) non-pecuniary general damages for negligence, loss of language and culture, breach of non-delegable, fiduciary, statutory, treaty and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(h) pecuniary general damages and special damages for negligence, loss of income, loss of earning potential, loss of economic opportunity, breach of non delegable fiduciary, statutory, treaty and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(i) exemplary and punitive damages in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as the Honourable Court finds appropriate;

(j) prejudgment and post-judgment interest pursuant to the provisions of the CJA, sections 128 and 129 as amended, and its equivalent statutes, if any, in other provinces and territories in Canada; and

(k) the costs of this action on a substantial indemnity scale.

The Family Class

8. The Representative Plaintiffs, on their own behalf and on behalf of the members of the Family Class, claim:

(a) an Order certifying this proceeding as a Class Proceeding pursuant to the CPL and appointing them as representative Plaintiffs for the Family Class and any appropriate subgroup thereof;

(b) a Declaration that Canada owed and was in breach of non-delegable, fiduciary, statutory and common law duties to the Plaintiffs and the other Family Class Members in relation to the establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members and Deceased Class Members to, obligatory attendance of Survivor Class Members and Deceased Class Members at and support of the Residential Schools throughout Canada;

(c) a Declaration that Canada was negligent in the establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members and Deceased Class Members to, obligatory attendance of Survivor Class Members and Deceased Class members at and support of the Residential Schools throughout Canada;

(d) a Declaration that the Residential Schools Policy and the Residential Schools caused Cultural, Linguistic and Social Damage and irreparable harm to the Family Class;

(e) a Declaration that Canada was or is in breach of its statutory duties pursuant to the Act and its Treaty obligations to the Plaintiffs and the other Family Class Members as a consequence of its establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members and Deceased Class Members to, obligatory attendance of Survivor Class Members and Deceased Class Members at and support of the Residential Schools throughout Canada;

(f) a Declaration that Canada is liable to the Plaintiffs and other Family Class Members for the damages caused by its breach of non-delegable, fiduciary, statutory and common law duties and for negligence in relation to the establishment, funding, operation, supervision, control maintenance, confinement in, transport of Survivor Class Members and Deceased Class Members to, obligatory attendance of Survivor Class Members and Deceased Class Members at and support of the Residential Schools throughout Canada;

(g) pecuniary general damages and special damages for negligence, loss of language and culture, breach of non delegable fiduciary, statutory, treaty and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(h) exemplary and punitive damages in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as the Honourable Court finds appropriate;

(i) damages in the amount of four billion dollars ($4,000,000,000.00), or such other sum as this Honourable Court finds appropriate, pursuant to the FLA, section 61,

as amended, and its predecessors, and the equivalent statutes, if any, in other provinces and territories in Canada;

(j) prejudgment and postjudgment interest pursuant to the provisions of the CJA, sections 128 and 129 as amended, and its equivalent statutes, if any, in other provinces and territories in Canada; and,

(k) the costs of this action on a substantial indemnity scale.

The Deceased Class

9. The Representative Plaintiffs, on behalf of the members of the Deceased Class who died before May 30, 2005, claim:

(a) an Order certifying this proceeding as a Class Proceeding pursuant to the CPL and appointing them as representative Plaintiffs for the Deceased Class and any appropriate subgroup thereof;

(b) a Declaration that Canada owed and was in breach of non delegable, fiduciary, statutory and common law duties to the Plaintiffs and the other Deceased Class Members in relation to the establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Deceased Class Members to, obligatory attendance of Deceased Class Members at and support of the Residential Schools throughout Canada;

(c) a Declaration that Canada was negligent in the establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Deceased Class Members to, obligatory attendance of Deceased Class Members at and support of the Residential Schools throughout Canada;

(d) a Declaration that the Residential Schools Policy and the Residential Schools caused Cultural, Linguistic and Social Damage and irreparable harm to the Deceased Class;

(e) a Declaration that Canada was or is in breach of its statutory duties pursuant to the Act and its Treaty obligations to the Plaintiffs and the other Deceased Class Members as a consequence of its establishment, funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members to, obligatory attendance of Survivor Class Members and Deceased Class Members at and support of the Residential Schools throughout Canada;

(f) a Declaration that Canada is liable to the Plaintiffs and other Deceased Class Members for the damages caused by its breach of non delegable, fiduciary, statutory and common law duties and for negligence in relation to the establishment, funding, operation, supervision, control maintenance, confinement in, transport of Deceased Class Members to, obligatory attendance of Deceased Class Members at and support of the Residential Schools throughout Canada;

(g) non-pecuniary general damages for negligence, loss of language and culture, breach of non delegable, fiduciary, statutory, treaty and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(h) pecuniary general damages and special damages for negligence, loss of income, loss of earning potential, loss of economic opportunity, breach of non delegable fiduciary, statutory, treaty and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(i) exemplary and punitive damages in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as the Honourable Court finds appropriate;

(j) prejudgment and postjudgment interest pursuant to the provisions of the CJA, sections 128 and 129 as amended, and its equivalent statutes, if any, in other provinces and territories in Canada; and,

(k) costs of this action on a substantial indemnity scale.

C. RELIEF SOUGHT BY THE PLAINTIFFS AGAINST THE CHURCHES

The Survivor Class

10. The Representative Plaintiffs, on their own behalf and on behalf of the members of the Survivor Class, claim:

(a) as Order certifying this proceeding as a Class Proceeding pursuant to the CPL and appointing them representative Plaintiffs for the Survivor Class and any appropriate subgroup thereof;

(b) a Declaration that the Churches owed and were in breach of non-delegable, fiduciary and common law duties to the Plaintiffs and the other Survivor Class Members in relation to the operation, supervision, maintenance and administration of the Residential Schools throughout Canada;

(c) a Declaration that the Churches were negligent in the operation, and administration in the transport of Survivor Class Members to obligatory attendance of Survivor Class Members at and support of the Residential Schools throughout Canada;

(d) a Declaration that the Churches are liable to the Plaintiffs and other Survivor Class Members for the damages caused by its breach of non-delegable, fiduciary, statutory and common law duties and for negligence in relation to the operation, supervision, maintenance, administration and confinement in, transport of Survivor Class Members to, obligatory attendance of Survivor Class Members at and support of the Residential Schools throughout Canada;

(e) non-pecuniary general damages for negligence, breach of non delegable, fiduciary and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(f) pecuniary general damages and special damages for negligence, breach of non delegable fiduciary and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(g) exemplary and punitive damages in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as the Honourable Court finds appropriate;

(h) prejudgment and postjudgment interest pursuant to the provisions of the CJA, sections 128 and 129 as amended, and its equivalent statutes, if any, in other provinces and territories in Canada; and,

(i) the costs of this action on a substantial indemnity scale.

The Family Class

11. The Representative Plaintiffs, on their own behalf and on behalf of the members of the Family Class, claim:

(a) an Order certifying this proceeding as a Class Proceeding pursuant to the CPL and appointing them as representative Plaintiffs for the Family Class and any appropriate subgroup thereof;

(b) a Declaration that the Churches owed and were in breach of non-delegable, fiduciary and common law duties to the Plaintiffs and the other Family Class Members in relation to the funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members and Deceased Class Members to attendance of Survivor Class Members and Deceased Class Members at and support of the Residential Schools throughout Canada;

(c) a Declaration that the Churches were negligent in the funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class Members and Deceased Class Members to attendance of Survivor Class Members and Deceased Class members at and support of the Residential Schools throughout Canada;

(d) a Declaration that the Residential Schools caused Cultural, Linguistic and Social Damage and irreparable harm to the Family Class;

(e) a Declaration that the Churches are liable to the Plaintiffs and other Family Class Members for the damages caused by its breach of non-delegable, fiduciary and common law duties and for negligence in relation to the funding, operation, supervision, control, maintenance, confinement in, transport of Survivor Class

Members and Deceased Class Members to, attendance of Survivor Class Members and Deceased Class Members at and support of the Residential Schools throughout Canada;

(f) pecuniary general damages and special damages for negligence, loss of language and culture, breach of non delegable fiduciary and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(g) exemplary and punitive damages in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as the Honourable Court finds appropriate;

(h) damages in the amount of four billion dollars ($4,000,000,000.00), or such other sum as this Honourable Court finds appropriate, pursuant to the FLA, section 61, as amended, and its predecessors, and the equivalent statutes, if any, in other provinces and territories in Canada

(i) prejudgment and postjudgment interest pursuant to the provisions of the CJA sections 128 and 129 as amended, and its equivalent statutes, if any, in other provinces and territories in Canada; and,

(j) the costs of this action on a substantial indemnity scale.

The Deceased Class

12. The Representative Plaintiffs, on behalf of the members of the Deceased Class who died before May 30, 2005, claim:

(a) an Order certifying this proceeding as a Class Proceeding pursuant to the CPL and appointing them as representative Plaintiffs for the Deceased Class and any appropriate subgroup thereof;

(b) a Declaration the Churches owed and were in breach of non-delegable, fiduciary and common law duties to the Plaintiffs and the other Deceased Class Members in relation to the funding, operation, supervision, control, maintenance, confinement in, transport of Deceased Class Members to attendance of Deceased Class Members at and support of the Residential Schools throughout Canada;

(c) a Declaration that the Churches were negligent in the funding, operation, supervision, control, maintenance, confinement in, transport of Deceased Class Members to, attendance of Deceased Class Members at and support of the Residential Schools throughout Canada;

(d) a Declaration that the Residential Schools caused Cultural, Linguistic and Social Damage and irreparable harm to the Deceased Class;

(e) a Declaration that the Churches are liable to the Plaintiffs and other Deceased Class Members for the damages caused by its breach of non-delegable, fiduciary

and common law duties and for negligence in relation to the funding, operation, supervision, control maintenance, confinement in, transport of Deceased Class Members to attendance of Deceased Class Members at and support of the Residential Schools throughout Canada;

(f) non-pecuniary general damages for negligence, loss of language and culture, breach of non delegable, fiduciary and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(g) pecuniary general damages and special damages for negligence, loss of income, loss of earning potential, loss of economic opportunity, breach of non delegable fiduciary, statutory, treaty and common law duties in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as this Honourable Court finds appropriate;

(h) exemplary and punitive damages in the amount of twelve billion dollars ($12,000,000,000.00) or such other sum as the Honourable Court finds appropriate;

(i) prejudgment and postjudgment interest pursuant to the provisions of the CJA, sections 128 and 129 as amended, and its equivalent statutes, if any, in other provinces and territories in Canada; and,

(j) the costs of this action on a substantial indemnity scale.

D. THE PLAINTIFFS

13. The Plaintiff, Chief Larry Philip Fontaine ("Chief Fontaine"), is the National Chief of the Assembly of First Nations, the national organization representing First Nations citizens in Canada, which includes approximately 700,000 citizens living in 633 First Nations communities. He was born on September 20, 1944. Chief Fontaine is a member of the Sagkeeng First Nation and is an Indian as defined in section 6 of the Act. Chief Fontaine resides in Ottawa, Ontario. Chief Fontaine was taken from his family when he was 6 years old and resided at the Fort Alexander Residential School in Fort Alexander, Manitoba from 1951 to 1958. Chief Fontaine's experience at Residential School involved, but was not limited to, being removed from the care of his parents, family, and community, being actively discouraged from speaking his native language, Ojibway, being repeatedly sexually and physically abused by being made to disrobe and bathe in the presence of the priest, being slapped, strapped and poked, being repeatedly told

by nuns and priests that he, and his peers were, "savages" and "evil", being repeatedly made to eat food off the floor in the presence of his peers, while being taunted by the nun, and being given inadequate food, health care, and education.

14. The Plaintiff Michelline Ammaq ("Ammaq"), was born on August 30, 1957 and is an Inuk. Ammaq presently lives in Igloolik, Nunavut. Ammaq was taken from her family when she was seven (7) years old and attended Sir Joseph Bernier Federal Day School in Chesterfield Inlet and resided in Turquetil Hall from 1964 to 1969. Ammaq's experience at Residential School involved, but was not limited to, being removed from the care of her parents, family and community, not being allowed to speak her native language, Inuktitut, being sexually, physically and emotionally abused, being given inadequate food, health care and education.

15. The Plaintiff, Percy Archie ("Archie"), resides in Kamloops, British Columbia. Archie is a member of the Canum Lake Band and is an Indian as defined in the Act. Archie was born on May 22, 1950 and attended the St. Joseph's Indian Residential School in Williams Lake, British Columbia between 1963 and 1965.

16. The Plaintiff, Charles Baxter Senior ("Baxter Snr."), was born on November 24, 1950, and is a member of the Marten Falls First Nation, Ogoki Post, and is an Indian as defined in section 6 of the Act. Baxter Snr. is now a member of, and presently lives on the Constance Lake First Nation near Calstock, Ontario, where he is employed as the Residential School Coordinator. He resided at the Pelican Falls Residential School near Sioux Lookout from 1958 to 1966, and the Shingwauk Hall Residential School in Sault Ste. Marie from 1966 to 1968. Baxter Snr.'s experiences at these Residential Schools involved, but was not limited to, being removed from the care of his parents, family and community, having his hair cut off, being required to do physical labour in a barn, being physically abused, often for speaking his native language,

Ojibway, being given inadequate food and supplies, being provided with a sub-standard education and being repeatedly sexually molested by dormitory supervisors, other staff at Pelican Falls and other students.

17. The Plaintiff, Elijah Baxter ("Baxter"), was born on January 27, 1923 and is a member of the Marten Falls First Nation, Ogoki Post, and is an Indian as defined in section 6 of the Act. Baxter presently lives in the Town of Geraldton in the Province of Ontario and is father to eleven (11) children. He resided at the Pelican Falls Residential School near Sioux Lookout from approximately 1933 to 1936. Baxter's experience at the Residential School included, but was not limited to, being removed from the care of his parents, family and community, being required to do physical labour on a farm, being inadequately educated resulting in illiteracy, being physically abused, often for speaking his native language and being sodomized on more than one occasion by a member of the staff at Pelican Falls while on school property. Even after having to endure such an experience, Baxter was forced to send his own children to Residential Schools where they were also physically, emotionally and sexually abused.

18. The Plaintiff Evelyn Baxter ("E. Baxter") resides in Thunder Bay, Ontario. E. Baxter is a member of the Marten Falls First Nation. E. Baxter was born on April 12, 1967 and her mother attended the Pelican Falls Indian Residential School and Shingwauk Residential School. E. Baxter's grandparents, uncle, Elijah Baxter, and her cousin, Charles Baxter Snr., also attended Indian Residential School. E. Baxter is a proposed representative plaintiff for the Family Class.

19. The Plaintiff Donald Belcourt ("Belcourt") resides in Swan Hills, Alberta. Belcourt is a member of the Sucker Creek First Nation and is an Indian as defined in the Act. Belcourt was born on September 26, 1939, and attended the St. Bruno's Residential School in Alberta from 1946 to 1954.

20. The Plaintiff Nora Bernard ("Bernard") resides at the Millbrook First Nation Reserve, in Nova Scotia. Bernard is a Mi'kmaq and a Status Indian. Bernard was born on September 22, 1935 and attended the Shubencadie Indian Residential School in the 1940s.

21. The Plaintiff John Bosum ("Bosum") resides in the City of Montreal, Quebec. Bosum is a Cree and a Status Indian. Bosum attended the La Tuque Indian Residential School in Quebec between 1962 and 1973.

22. The Plaintiff Janet Brewster ("Brewster") resides in Igalut, Nunavut. Brewster is an Inuk enrolled under the Nunavut Land Claims Agreement. Brewster's mother attended the Akaitcho Hall Indian residential School in Yellowknife between 11964 and 1969. Brewster is a proposed representative plaintiff for the Family Class.

23. The Plaintiff Rhonda Buffalo ("Buffalo") resides in the City of Regina, Saskatchewan. Buffalo is a member of the Day Star First Nation and is an Indian as defined in the Act. Buffalo resided at the Gordon's Residential School in Punnichy, Saskatchewan from 1971 to 1980.

24. The Plaintiff Ernestine Caibaiosai-Gidmark ("Gidmark") resides in Wiwkemikeng, Ontario. Gidmark is a member of the Sagamok First Nation and is an Indian as defined in the Act. Gidmark attended the Spanish Hills Residential School in Ontario between 1961 and 1962.

25. The Plaintiff Michael Carpan ("Carpan") resides in Edmonton, Alberta. Carpan is a member of the Slave Lak First Nation and is an Indian as defined in the Act. Carpan attended St. Mary's Residential School in Alberta between 1964 and 1976.

26. The Plaintiff Brenda Cyr ("B. Cyr") resides in Regina, Saskatchewan. B. Cyr is a member of the Gordon's First Nation and is an Indian as defined in the *Act*. B. Cyr attended the

Lebret Indian Residential School between 1966 and 1969 and the Muscowequan Indian Residential School between 1969 and 1975.

27. The Plaintiff Dawson ("Dawson") resides in Whitehorse in the Yukon. Dawson is a member of Kwanlin Dun First Nation and is an Indian as defined in the Act. Dawson was born on January 1, 1942 and attended the Whitehorse Baptist Mission School, in the Yukon between 1946 and 1955.

28. The Plaintiff Ann Dene ("Dene") resides in Huntington, Quebec. Dene is a member of the Mikisew Cree First Nation and is an Indian as defined in the Act. Dene attended the Holy Angels Residential School in Alberta between 1968 and 1972.

29. The Plaintiff, Vincent Bradley Fontaine ("Bradley") was born on October 11, 1960, and is the son of James Fontaine. Bradley is a member of the Sagkeeng First Nation and is an Indian as defined in section 6 of the Act. Bradley resides on the Sagkeeng Reserve in Manitoba and resided at the Fort Alexander Residential School in Manitoba from 1965 to 1969.

30. The Plaintiff, James Fontaine ("Fontaine") was born on August 15, 1930. He is a member of the Sagkeeng First Nation, and is an Indian as defined in section 6 of the Act. Fontaine presently lives on the Sagkeeng Reserve in Manitoba. Fontaine was taken from his family when he was six (6) years old and resided at the Fort Alexander Residential School in Manitoba from 1936 to 1944. Fontaine's experience at the Residential School involved, but was not limited to, being removed from the care of his parents, family, and community, being actively discouraged from speaking his native language, being physically abused by being slapped and strapped, and by being given inadequate food, health care, and education.

31. The Plaintiff Agnes Mary Fontaine (nee Spence) ("Spence") was born on June 28, 1912 and died on August 10, 1988. Spence was a member of the Sagkeeng First Nation and was an Indian as defined in section 6 of the Act. Spence was taken from her family when she was seven (7) years old and resided at the Fort Alexander Residential School in Manitoba from 1919 to 1928. Spence's experience at the Residential School included being removed from the care of her parents, family, and community, not being allowed to speak her native language, or practice traditional spiritual ways, being sexually, physically and emotionally abused by Canada's Agents, being given inadequate food, health care, and education.

32. The Plaintiff Dana Eva Marie Francey ("Francey") resides in Inuvik, Northwest Territories. Francey is a member of the Inuvialuit Society and a beneficiary of the Inuvialuit Final Agreement, 1985. francey's mother attended the Sir Alexander MacKenzie Indian Residential School between kindergarten and grade six, and then resided in Stringer Hall, in Inuvik between 1962 and 1971. Francey is a proposed representative plaintiff for the Family Class.

33. The Plaintiff Peggy Good ("Good") resides in Victoria, British Columbia. Good is a member of the Nanaimo First Nation and is an Indian as defined in the Act. Good attended the Port Alberni Residential School in British Columbia between 1954 and 1964.

34. The Plaintiff, Fred Kelly ("Kelly") was born on April 13, 1942. Kelly is a member of the Ojibways of Onigaming First Nation and is an Indian as defined in section 6 of the Act. Kelly resides in Winnipeg, Manitoba. Kelly was taken from his family when he was five (5) years old and resided at the St. Mary's Indian Residential School in Kenora, Ontario from 1947 to 1956 and again from 1958 to 1959. Kelly also resided at the St. Paul's Residential High School in Lebret, Saskatchewan from 1956 to 1958.

35. The Plaintiff Rosemarie Kuptana ("Kuptana"), was born on March 24, 1954 and is Inuvialuit. Kuptana presently lives in Inuvik, Northwest Territories. She was taken from her family when she approximately seven (7) years old and attended Sir Alexander Mackenzie School and Samuel Hearne Secondary School while residing at Stringer Hall from approximately 1961 to 1971. Kuptana's experience at Residential School involved, but was not limited to, being removed from the care of her parents, family and community, not being allowed to speak her native language, Inuinaktun, or practice traditional spiritual ways, being sexually, physically and emotionally abused, being given inadequate food, health care and education.

36. The Plaintiff Elizabeth Kusiak ("Kusiak") resides in Edmonton, Alberta. Kusiak is a member of the Athabasca Chipewyan First Nation and is an Indian as defined in the Act. Kusiak was born on October 10, 1941 and attended the Holy Angels Residential School in Fort Chipewyan, Alberta from 1950 to 1958.

37. The Plaintiff Theresa Larocque ("Larocque") resides in Edmonton, Alberta. Larocque is Cree, a Statue Indian and a member of the Bigstone Cree First Nation. Larocque was born on December 19, 1953 and attended the St. Martin's Mission in Desmaris, Alberta from 1959 to 1969.

38. The Plaintiff Jane McCallum ("McCallum") resides in Prince Albert, Saskatchewan. McCallum is a member of the Peter Ballantyne First Nation and is an Indian as defined in the Act. McCallum attended the Guy Hill Residential School in Manitoba between 1949 and 1958.

39. The Plaintiff Cornelius McComber ("McComber") resides in Kahnawake, Quebec. McComber is a member of the Mohawk First Nation and is an Indian as defined in the Act.

McComber resided at the St. Charles Garnier Residential School in Quebec between 1946 and 1952.

40. The Plaintiff Veronica Marten ("Marten") resides in Edmonton, Alberta. Marten is a member of the Mikisaw Cree First Nation. Marten was born on February 9, 1972 and her mother attended the Holy Angels Indian Residential School in Fort Chipewyan, Alberta between 1951 and 1967. Marten's uncles and aunt also attended Indian Residential School. Marten is a proposed representative plaintiff for the Family Class.

41. The Plaintiff Stanley Thomas Nepetaypo ("Nepetaypo") resides in Thompson, Manitoba. Nepetaypo is a member of the Fox Lake First Nation and is an Indian as defined in the Act. Nepetaypo attended the Norway House Gordon's Residential School in Saskatchewan between 1954 and 1959.

42. The Plaintiff Flora Northwest ("Northwest") resides in Hobbema, Alberta. Northwest is a member of the Samson First Nation and is an Indian as defined in the Act. Northwest attended the Hobbema/Ermineskin Residential School in Alberta between 1951 and 1961.

43. The Plaintiff Norman Pauchay ("Pauchay") resides in the City of Yorkton, Saskatchewan and is forty-three (43) years old. Pauchay is a member of the Yellow Quill First Nation and is an Indian as defined in section 6 of the Act. Pauchay attended Gordon's Residential School near Punnichy, Saskatchewan between 1971 and 1973.

44. The Plaintiff Camble Quatell ("Quatell") resides in Campbell River, British Columbia. Quatell is a member of the Campbell River Indian Band Fist Nation and is an Indian as defined in the Act. Quatell attended the St. Michael's Residential School in British Columbia, between 1952 and 1962.

45. The Plaintiff, Alvin Barney Saulteaux ("Saulteaux"), resides in the City of Indian Head, Saskatchewan and is thirty-seven (37) years old. Saulteaux is a member of the Carry the Kettle First Nation and is an Indian as defined in section 6 of the Act. Saulteax resided at the Lebret Indian Residential School near Lebret, Saskatchewan between 1983 and 1986.

46. The Plaintiff Christine Semple ("Semple") resides in Watson Lake, in the Yukon. Semple is a member of the Grand Rapids First Nation and is an Indian as defined in the Act. Semple attended the Mackay Residential School in Manitoba between 1957 and 1962.

47. The Plaintiff Dennis Smokeyday ("Smokeyday") resides in Kinistin, Saskatchewan. Smokeyday is a member of the Kinistin First Nation and is an Indian as defined in the Act. Smokeyday resided at the Muscowegan Residential School in Saskatchewan between 1970 and 1978.

48. The Plaintiff Kenneth Sparvier ("Sparvier") resides in the City of Regina, Saskatchewan. Sparvier is a member of the Cowessess First Nation and is an Indian as defined in the Indian Act. Sparvier resided at the Marievel Residential School in Saskatchewan and the Lebret Residential School from 1949 to 1958 and 1958 and 1961, respectively.

49. The Plaintiff Edward Tapiatic ("Tapiatic") resides in the City of Chisasibi, Quebec. Tapiatic is a member of the Cree Nation of Chisasibi and is an Indian as defined in the Act. Tapiatic was born on February 21, 1951 and attended the St. Phillips Indian Residential School in Quebec between 1956 and 1966 and La Tuque Residential School between 1967 and 1968.

50. The Plaintiff Helen Winderman ("Winderman") resides in Fort Nelson, British Columbia. Winderman is a member of the Fort Nelson First Nation and is an Indian as defined in the Act.

Winderman attended the Lower Post Residential School in British Columbia between 1963 and 1968.

51. The Plaintiff Adrian Yellowknee ("Yellowknee") resides in Wabasca, Alberta. Yellowknee is a member of the Bigston Cree First Nation and is an Indian as defined in the Act. Yellowknee attended the St. Martin and St. Bruno's Residential Schools between 1953 and 1963 and 1963 and 1964, respectively.

E. THE DEFENDANTS

52. The Defendant, the Federal Government of Canada, is being represented in this proceeding by the Attorney General of Canada.

53. The General Synod of the Anglican Church of Canada ("the General Synod") is a corporation originally incorporated under the name "The General Synod of the Church of England in Canada" by *An Act to Incorporate the General Synod of the Church of England in Canada*, S.C. 1921, c. 82. In 1956, the name of the General Synod was changed to "The General Synod of The Anglican Church of Canada" by S.C. 1956, c.57.

54. The Missionary Society of the Anglican Church of Canada ("the Missionary Society") is a corporation under the laws of Canada. It was originally incorporated under the name "The Missionary Society of the Church of England in Canada" by *An Act to Incorporate the Missionary Society of the Church of England in Canada*, S.C. 1903, c. 155. In 1956, the name of the Missionary Society was changed to "The Missionary Society of the Anglican Church of Canada" by S.C. 1956, c.57.

55. From 1902 to 1969, the Missionary Society was established to undertake the general missionary work of the General Synod and overseas.

56. The Dioceses of the Anglican Church of Canada listed in Schedule "A" to this Statement of Claim were involved in the operation of Indian Residential Schools up to and including 1969.

57. The United Church of Canada was founded pursuant to a covenant formed between the members of its founding churches, and was incorporated between 1924 and 1926 by the Parliament of Canada and the Legislatures of the various provinces. The statutes adopted the said covenant and were and are each known as *The United Church of Canada Act.*

58. The Methodist Church of Canada was one of the founding churches of The United Church of Canada, and was described in *The United Church of Canada Act* as including "the body corporate known as the Methodist Church and all bodies corporate established or created by The Methodist Church or any Conference thereof under the provisions of any statute of the Parliament of Canada, or the Legislature of any Province thereof ... and all Methodist congregations separately incorporated under any statute of any Province of the Dominion of Canada". Pursuant to *The United Church of Canada Act*, the several corporations described as "The Methodist Church" merged in the corporation of The United Church of Canada.

59. The Board of Home Missions of the United Church of Canada was established in 1925 as an unincorporated internal administrative division of The United Church of Canada. The Board of Home Missions had responsibility for supervision and administration of all the missionary work of The United Church within Canada, including work with First Nations' people and Indian Residential Schools. In an internal restructuring of The United Church of Canada in 1971, the mandate and work of the Board of Home Missions was merged into the Division of Mission in Canada.

60. The Women's Missionary Society of The United Church of Canada came into existence in 1925 as an unincorporated internal organization for women within The United Church of Canada. Its mandate included the appointing of missionaries and associate workers in Canada, recruiting and training women church workers, producing missionary periodicals, carrying through mission education programs for all ages in the church, and fund-raising for all its mission activities. In 1962, the Women's Missionary Society joined with the Women's Society of The United Church of Canada to form the United Church Women.

61. The Missionary Society of the Methodist Church of Canada existed as part of the Methodist Church of Canada, formed in 1874, and the Methodist Church (Canada), formed in 1884. The objects of the Society were the support of domestic, Aboriginal, immigrant, new Canadian, French Canadian, and other missions carried on under the direction of a central committee and board, and later also under the Conferences. The work covered the entire mission field including work with Aboriginal People in Ontario, Quebec and Western Canada. In 1925, pursuant to *The United Church of Canada Act*, the body corporate of which the Missionary Society was part merged in the corporation of The United Church of Canada.

62. During the period referenced in the Statement of Claim, the General Synod consisted of the Primate and Bishops of the Anglican Church of Canada, and of members chosen from clergy and laity elected by the several dioceses of the Anglican Church of Canada in accordance with the Constitution of the General Synod.

63. The Defendant, The Presbyterian Church in Canada (the "PCC"), is an unincorporated association which includes congregations, members and adherents of The Presbyterian Church in Canada who did not become part of the United Church of Canada on June 10, 1925, together with persons who have since that date joined The Presbyterian Church in Canada as members or

adherents. The PCC was referred to in *An Act to Incorporate The Trustee Board of The Presbyterian Church in Canada*, S.C. 1939, c. 64 and *An Act respecting the United Church in Canada*, S.C. 1939, c. 65.

64. The Defendant, The Trustee Board of The Presbyterian Church in Canada (the "Trustee Board"), is a body corporate. The Trustee Board was incorporated by a Special Act of Parliament entitled *An Act to Incorporate The Trustee Board of The Presbyterian Church in Canada* S.C. 1939, c. 64 and was recognized by the Ontario Legislature in *An Act respecting the Trustee Board of The Presbyterian Church in Canada,* S.O. 1939, c. 69.

65. The Defendant, The Foreign Mission of The Presbyterian Church in Canada entered into agreements dated April 1, 1911 with His Majesty the King, represented by the Superintendent General of Indian Affairs of Canada, for the operation of the Cicilia Jeffrey Boarding School and the Birtle Boarding School and reported annually to The General Assembly of The Presbyterian Church in Canada and had oversight of, inter alia, missionary work to aboriginal peoples.

66. The Defendant, The Women's Missionary Society of The Presbyterian Church in Canada, entered into agreements dated May 22, 1962, with Her Majesty the Queen in Right of Canada, for the operation of the Cecilia Jeffrey Indian Residential School and the Birtle Indian Residential School and reported annually to The General Assembly of The Presbyterian Church.

67. The balance of the Defendants are listed and described at Schedule "A" of this Claim.

F. THE RESIDENTIAL SCHOOL SYSTEM AND SYSTEMIC CHILD ABUSE, NEGLECT AND MALTREATMENT

68. Residential Schools were established by Canada as early as 1874, for the education of Aboriginal children. These children were taken from their homes and their communities and transported to Residential Schools where they were confined and deprived of their heritage, their

support networks and their way of life, forced to adopt a foreign language and a culture alien to them.

69. Commencing in 1911, Canada entered into formal agreements with the Churches for the operation of such Schools. Pursuant to these agreements, Canada controlled, regulated, supervised and directed all aspects of the operation of the Residential Schools. The Churches assumed the day-to-day operation of the Residential Schools under the control, supervision and direction of Canada, for which the Canada paid the Churches a per capita grant calculated to cover part of the cost of the Residential School operation.

70. As of 1920, the Residential School Policy included compulsory attendance at Residential Schools for all Aboriginal children aged 7 (seven) to 15 (fifteen).

71. This approach to the control and operation of the Residential Schools system continued throughout the Class Period until April 1, 1969, at which time Canada assumed the sole operation and administration of the Residential Schools from the Churches, excepting certain cases where Churches continued to act as agents of Canada until the end of the Class Period.

72. Canada removed Aboriginal Persons, usually young children, from their homes and Aboriginal communities and transported them to Residential Schools which were often long distances away. Canada controlled all aspects of the admission of Aboriginal Persons to the Residential Schools including arrangements for the care of such persons over holiday periods and the methods of transporting children to and from Residential Schools.

73. Aboriginal Persons were often taken from their families without the consent of their parents or guardians. While the stated purpose of the Residential Schools from their inception was the education of Aboriginal children, their true purpose was the complete integration and

assimilation of Aboriginal children into mainstream Canadian society and the obliteration of their traditional language, culture and religion.

74. In addition to the inherent cruelty of the Residential School Policy itself, many children attending Residential Schools were also subject to repeated and extreme physical, sexual and emotional abuse, all of which continued until the year 1997, when the last Federally operated Residential School was closed.

75. There were in excess of one hundred (100) Residential Schools in operation in Canada in every Province and Territory except New Brunswick and Prince Edward Island during the Class Period, with a peak of 74 schools in operation in 1920. Canada has estimated that, as of 2005, there were approximately eighty-five thousand (85,000) survivors of Residential Schools in Canada, representing the potential size of the Survivor Class.

76. During the Class Period, children were subjected to systemic child abuse, neglect and maltreatment. They were forcibly confined in Residential Schools and were systematically deprived of the essential components of a healthy childhood. They were subjected to physical, emotional, psychological, cultural, spiritual and sexual abuse by those who were responsible for their well being.

77. Their accommodation was crowded, cold, and sub-standard. They were underfed and ill nourished. They were forbidden to speak their native languages and to practice the customs and traditions of their culture. They were deprived of love and affection from their families and of the support that a child would normally expect to have from those in positions of trust and authority. They were subjected to corporal punishment, assaults, including physical and sexual, and systematic child abuse.

78. Canada has a fiduciary relationship with Aboriginal People in Canada and owed and owes fiduciary duties to the Aboriginal People in Canada. Canada created, planned, established, set up, initiated, operated, financed, supervised, controlled and regulated all Residential Schools in Canada during the Class Period.

79. Furthermore, Canada was responsible for the operation and administration of each Residential School during the Class Period. Prior to April 1, 1969, Canada paid the Churches to carry out this operation and administration on its behalf and under its guidance, supervision and control. Canada carried out that operation and administration directly after April 1, 1969. These operative and administrative responsibilities, carried out on behalf of Canada by its Agents or the Churches and its Agents, included:

(a) the operation and maintenance of Residential Schools during the Class Period;

(b) the care and supervision of all members of the Survivor Class, and for supplying all the necessaries of life to Survivor Class members *in loco parentis*;

(c) the provision of educational and recreational services to the Survivor Class while in attendance at Residential Schools and control over all persons allowed to enter Residential School premises at all material times;

(d) the selection, supply and supervision of teaching and non-teaching staff at the Residential Schools and reasonable investigation into the character, background and psychological profile of all individuals employed to teach or supervise the Class;

(e) inspection and supervision of Residential Schools and all activities taking place therein, and for full and frank reporting to Canada respecting conditions in the Residential Schools and all activities taking place therein;

(f) transportation of Survivor Class members to and from Residential Schools; and

(g) communication with and reporting to the Family Class respecting the activities and experiences of Survivor Class members while attending Residential Schools.

80. Attempts to provide educational opportunities to children confined to Residential Schools were ill-conceived and poorly executed by inadequately trained teaching staff. The result was to

effectively deprive the children of any useful or appropriate education. Very few survivors of Residential Schools went on to any form of higher education.

81. The conditions and abuses in the Residential Schools during the Class Period were well-known to Canada. Information about the misconduct of the persons operating and employed at the Residential Schools was suppressed and covered up.

82. Canada began to close schools and by 1979 only twelve (12) schools remained with a total resident population of one thousand, eight hundred and ninety nine (1,899) students.

G. CANADA'S STATEMENT OF RECONCILIATION

83. In fact, in January of 1998, Canada issued a Statement of Reconciliation acknowledging and apologizing for the failures of the Residential School Policy. Moreover, Canada admitted that the Residential School system was wrongly and inappropriately designed to assimilate Aboriginal Persons. The Plaintiffs plead that the Statement of Reconciliation by Canada is an admission by Canada of the facts and duties set out in paragraphs * and * and the allegations set out in paragraphs * and * herein and is relevant to the Plaintiffs' claim for damages, particularly punitive damages. The Statement of Reconciliation stated, in part, as follows:

> Sadly, our history with respect to the treatment of Aboriginal people is not something to 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 desegregated, 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 results of these actions was the erosion of the political, economic and social systems of Aboriginal people and nations.
>
> Against the backdrop of these historical legacies, it is a remarkable tribute to the strength and endurance of Aboriginal people that they have maintained their historic diversity and identity. The Government of Canada today formally expresses to all Aboriginal people in Canada our

> profound regret for past actions of the Federal Government which have contributed to these difficult pages in the history of our relationship together.
>
> One aspect of our relationship with Aboriginal people over this period that requires particular attention is the Residential School System. This system separated many children from their families and communities and prevented them from speaking their own languages and from learning about their heritage and cultures. In the worst cases, it left legacies of personal pain and distress that continued to reverberate in Aboriginal communities to this date. Tragically, some children were the victims of physical and sexual abuse.
>
> The Government of Canada acknowledges the role it played in the development and administration of these schools. Particularly to those individuals who experienced the tragedy of sexual and physical abuse at Residential Schools, and who have carried this burden believing that in some way they must be responsible, we wish to emphasize that what you experienced was not your fault and should never have happened. To those of you who suffered this tragedy at Residential Schools, we are deeply sorry. In dealing with the legacies of the Residential School program, the Government of Canada proposes to work with First Nations, Inuit, Metis people, the Churches and other interested parties to resolve the longstanding issues that must be addressed. We need to work together on a healing strategy to assist individuals and communities in dealing with the consequences of the sad era of our history...
>
> Reconciliation is an ongoing process. In renewing our partnership, we must ensure that the mistakes which marked our past relationship are not repeated. The Government of Canada recognizes that policies that sought to assimilate Aboriginal people, women and men, were not the way to build a strong community...

H. CANADA'S BREACH OF DUTIES TO THE CLASS MEMBERS

84. The Defendant Canada, as represented by the Attorney General of Canada, has a fiduciary relationship with Aboriginal People in Canada. Canada created, planned, established, set up, initiated, operated, financed, supervised, controlled and regulated all Residential Schools in Canada during the Class Period.

85. Canada, the Churches and their respective servants and agents compelled members of the Survivor Class to leave their homes, families and communities, and forced members of the Survivor Class to attend and live in Residential Schools, all without lawful authority or the

permission and consent of Survivor Class members or that of their parents. Such confinement was wrongful, arbitrary and for improper purposes.

86. Survivor Class members were systematically subjected to the institutional conditions, regime and discipline of Residential School without the permission and consent of Survivor Class members or that of their parents, and were also subjected to wrongful acts at the hands of Canada and the Churches while confined therein.

87. All Aboriginal Persons who attended Residential Schools did so as Wards of Canada, with Canada as their guardian, and were persons to whom Canada owed the highest non delegable, fiduciary, moral, statutory and common law duties, which included, but were not limited to, the duty to ensure that reasonable care was taken of the Survivor Class while at Residential School, the duty to protect the Survivor Class while at Residential School, the duty to protect the Survivor Class from intentional torts perpetrated on them while at a Residential School. These non delegable and fiduciary duties were performed negligently and tortuously by Canada, in breach of its special responsibility to ensure the safety of the Survivor Class while at a Residential School. Canada was responsible for:

(a) the administration of the Act and its predecessor statutes as well as any other statutes relating to Aboriginal Persons and all Regulations promulgated under these Acts and their predecessors during the Class Period;

(b) the promotion of the health, safety and well being of Aboriginal Persons in Canada during the Class Period;

(c) the management, operation and administration of the Department of Indian Affairs and Northern Development and its predecessor Ministries and Departments during the Class Period;

(d) decisions, procedures, regulations promulgated, operations and actions taken by the Department of Indian Affairs and Northern Development, its employees, servants, officers and Agents in Canada and their predecessors during the Class Period;

(e) the construction, operation, maintenance, ownership, financing, administration, supervision, inspection and auditing of Residential Schools in Canada and for the creation, design and implementation of the program of education for Aboriginal Persons confined therein during the Class Period;

(f) the selection, control, training, supervision and regulation of the designated operators, including the Church Defendants listed in Schedule "B" hereto and other Religious organizations, and their employees, servants, officers and agents, and for the care and education, control and well being of Aboriginal Persons confined in Residential Schools in Canada during the Class Period;

(g) the provision of all educational services and opportunities to Aboriginal Persons in Canada, including Survivor Class members, pursuant to the provisions of the Act and any other statutes relating to Aboriginal Persons during the Class Period;

(h) transportation of Survivor Class Members and Deceased Class Members to and from Residential Schools and to and from their homes while attending Residential Schools during the Class Period;

(i) complying with the various treaties outlined below, where applicable, and for providing an appropriate education and educational environment in compliance with the various treaties;

(j) preserving, promoting, maintaining and not interfering with Aboriginal Rights, including the right to retain and practice their culture, spirituality, language and traditions and the right to fully learn their culture, spirituality, language and traditions from their families, extended families and communities;

(k) the care and supervision of all members of the Survivor Class while they were in attendance at Residential Schools during the Class Period and for the supply of all the necessities of life to Survivor Class Members, *in loco parentis*, during the Class Period;

(l) the provision of educational and recreational services to the Survivor Class while in attendance at Residential Schools during the Class Period;

(m) inspection and supervision of Residential Schools and all activities that took place therein during the Class Period and for full and frank reporting to Canada and to the Family Class Members with respect to conditions in the Residential Schools and all activities that took place therein during the Class Period; and

(n) communication with and reporting to the Family Class with respect to the activities and experiences of Survivor Class Members while attending Residential Schools during the Class Period.

88. During the Class Period, male and female Aboriginal children were subjected to gender specific, as well as non-gender specific, systematic child abuse, neglect and maltreatment. They

were forcibly confined in Residential Schools and were systematically deprived of the essential components of a healthy childhood. They were subjected to physical, emotional, psychological, cultural, spiritual and sexual abuse by those who were responsible for their well being. Their accommodation was crowded, cold, and sub-standard. They were underfed and malnourished. They were forbidden to speak their native language and to practice the customs and traditions of their culture. They were deprived of love and affection from their families and of the support that a child would normally expect to have from those in positions of trust and authority. They were subjected to corporal punishment, assaults, including physical and sexual assault. Canada's Residential School Policy was in breach of the *United Nations Genocide Convention*, ratified by Canada in September 1952, and in particular Article 2(b), (c) and (e) of that convention. The forced removal of Aboriginal children from their homes, residences and communities was a violation of this convention.

89. In contravention of the Treaties between the Government and First Nations and in contravention of the *United Nations Genocide Convention*, particularly Article 2(e) thereof to which the Government is a signatory, the Plaintiffs and other children of First Nations heritage were to be systemically assimilated into white society. In pursuance of that plan, they were forced to attend Residential Schools and contact with their families was restricted. Their cultures and languages were taken from them with sadistic punishment and practices.

90. Further, at all material times, Canada was bound by the rules of customary international law reflected and codified in the *Geneva Declaration of the Rights of the Child*, adopted by the League of Nations in 1924, including, but not limited to, the following:

(a) the child must be provided with the means necessary for his/her normal development, both materially and spiritually;

(b) the child must be put in a position to earn a livelihood and must be protected against every form or exploitation.

91. The effects from the Residential School policy further violated the *International Covenant on Civil and Political Rights*, in particular Articles 1 and 27 of that convention, ratified by Canada in May, 1976.

92. The effects from the forced integration and assimilation of the Aboriginal Persons has caused a profound and permanent cultural, psychological, emotional and physical injury and is in breach of the *United Nations Genocide Convention* in particular Article 2(b), (c) and (e) of the convention, ratified by Canada in September, 1952. The effects from the Residential School policy also violates the *International Covenant on Civil and Political Rights*, in particular Articles 1 and 27 of the convention, ratified by Canada in May, 1976, because it has interfered with the Survivor Class Members' and the Family Class Members' rights including but not limited to: the right to retain and practice their culture, spirituality, language and traditions, the right to fully learn their culture, spirituality, language and traditions from their families, extended families and communities and the right to teach their culture, spirituality, language and traditions to their own children, grandchildren, extended families and communities

93. Breached the *International Covenant on Civil and Political Rights*, in particular Articles 1 and 27 of the convention, ratified by Canada in May 1976, by interfering with the class, or one or more sub-class's rights to:

(i) retain and practice their culture, spirituality, language and traditions;

(ii) fully learn their culture, spirituality, language and traditions form their families, extended families and communities;

(iii) teach their culture, spirituality, language and traditions to their own children, grandchildren, extended families and communities;

94. The systemic child abuse, neglect and maltreatment sustained by the children at Residential Schools during the Class Period, the effect and impact of which is still being felt by Survivor Class Members and Family Class Members, was in violation of the rights of children, specifically, but not limited to, the following rights set out in the *United Nations Convention on the Rights of the Child*, adopted by the United Nations in 1989, and ratified by Canada in December of 1991:

(a) Freedom from discrimination – Canada breached its duties to protect children from any form of discrimination or punishment based on Family's status, activities or beliefs;

(b) Best interest of child – Canada breached it duty to ensure the establishment of institutional standards for the care and protection of children and breached it duty to have considered the best interest of the child in all legal and administrative decisions;

(c) Respect for parental responsibility – Canada breached it duty to protect the rights of parents or guardians to provide direction to their children in the exercise of their rights;

(d) Survival and development – Canada breached it duty to ensure the survival and maximum development of the child;

(e) Name and nationality – Canada breached its duty to recognize the right to a name and to acquire a nationality and the right to know and be cared for by parents;

(f) Preservation of identity – Canada breached it duty to recognize the right to preserve or re-establish the child's identity (name, nationality and family ties);

(g) Parental care and non-separation – Canada breached it duty to recognize the right to live with parents and maintain contact with both parents unless these are deemed incompatible with the child's best interests;

(h) Free expression of opinion – Canada breached it duty to recognize the child's right to express an opinion in matters affecting the child and to have that opinion heard;

(i) Freedom of thought, conscious and religion – Canada breached its duty to recognize the right to determine and practice any belief and ought to have respected the rights of parents or guardians to provide direction and the exercise of this right;

(j) Freedom of association – Canada breached its duty to recognize the right to freedom of association and freedom of peaceful assembly;

(k) Protection of privacy – Canada breached its duty to recognize the right to protection from arbitrary or unlawful interference with privacy, family, home, or corresponding attacks on honour and reputation;

(l) Parental responsibilities – Canada breached its duty to recognize the principal that both parents are responsible for the upbringing of their children and that parents or guardians have primary responsibility;

(m) Abuse and neglect – Canada breached its duty to protect children from all forms of abuse, neglect and exploitation by parents or others and ought to have undertaken preventative and treatment programs in this regard;

(n) Health care – Canada breached its duty to recognize the right to the highest attainable standards of health and access to medical services and breached its duty to attempt to diminish infant and child mortality, combat disease and malnutrition, ensure health care for expectant mothers, provide access to health education, develop preventative health care and abolish harmful traditional practices;

(o) Periodic review – Canada breached its duty to recognize the right of children placed by Canada for reasons of care, protection or treatment to have all aspects of that placement reviewed regularly;

(p) Education – Canada breached its duty to recognize the right to education by providing free and compulsory primary education, ensuring equal access to secondary and higher education and ensuring that school discipline does not threaten the child's human dignity;

(q) Aims of education – Canada breached its duty to direct education at developing the child's personality and talents, preparing the child for a responsible life in a free society and developing respect for the child's parents, basic human rights, the natural environment and the child's own cultural and national values and those of others;

(r) Children of minorities – Canada breached its duty to recognize the right of children of minority communities and indigenous populations to enjoy their own culture, practice their own religion and use their own language;

(s) Leisure and recreation – Canada breached its duty to recognize the right to leisure, play and participation in cultural and artistic activities;

(t) Child labour – Canada breached its duty to protect children from economic exploitation and from engaging in work that constitutes a threat to health, education and development;

(u) Sexual exploitation – Canada breached its duty to protect children from sexual exploitation and abuse;

(v) Other exploitation – Canada breached its duty to protect children from all other forms of exploitation; and,

(w) Torture, capital punishment and deprivation of liberty – Canada breached its duty to protect children from torture or other cruel, inhumane or degrading treatment.

95. Through its servants, officers, employees and agents, Canada was negligent and in breach of its non-delegable fiduciary, moral, statutory, and common law duties of care to the Survivor Class, the Family Class and the Deceased Class during the Class Period. Particulars of the negligence and breach of duty of Canada include the following:

(a) it systematically, negligently, unlawfully and wrongfully delegated its fiduciary and other responsibility and duties regarding the education of and care for Aboriginal children to others, including the Churches and other Religious organizations;

(b) it systematically, negligently, unlawfully and wrongfully admitted and confined Aboriginal children to Residential Schools;

(c) it acted without lawful authority and not in accordance with any statutory authority pursuant to or as contemplated by the provisions of the Act or any other statutes relating to Aboriginal Persons as:

(i) said provisions are and were *ultra vires* the Parliament of Canada and of no force and effect in law;

(ii) The conduct of Canada in placing the Aboriginal children in Residential Schools, confining them therein, and treating or permitting them to be treated there as set forth herein was in breach of Canada's fiduciary obligations to the Survivor Class and Family Class Members, which was not authorized or permitted by any applicable legislation and was, to the extent such legislation purported to authorize such fiduciary breach, of no force and effect and/or *ultra vires* the Parliament of Canada; and

(iii) Canada routinely and systematically failed to act in accordance with its own laws, regulations, policies and procedures with respect to the confinement of Aboriginal children in Residential Schools, which confinement was wrongful.

(d) it delegated to and contracted with the Churches and other Religious organizations to implement its program of forced integration, confinement and abuse;

(e) it failed to adequately screen and select the organizations and individuals to which it delegated the implementation of its Residential School program;

(f) it failed to adequately supervise and control Residential Schools and its agents operating same under its jurisdiction in Canada;

(g) it deliberately and chronically deprived the Survivor Class Members of the education they were entitled to or were led to expect from the Residential Schools or of any adequate education;

(h) it designed, constructed, maintained and operated Residential School buildings which were sub-standard, inadequate to the purpose for which they were intended and detrimental to the emotional, psychological and physical health of the Survivor Class;

(i) it failed to provide funding for the operation of Residential Schools that was sufficient or adequate to supply the necessities of life to Aboriginal children confined to them;

(j) it failed to respond appropriately or at all to disclosure of abuses in the Residential Schools during the Class Period;

(k) it conspired with the operators of the schools to suppress information about abuses taking place in the Residential Schools during the Class Period;

(l) it assaulted and battered the Survivor Class Members and permitted them to be assaulted and battered during the Class Period;

(m) it permitted an environment to which permitted and allowed student-upon-student abuse;

(n) it forcibly confined the Survivor Class Members and permitted them to be forcibly confined during the Class Period;

(o) it was in breach of its fiduciary duty to its Wards the Survivor Class Members by reason of the misfeasances, malfeasances and omissions set out above;

(p) it failed to inspect or audit the Residential Schools adequately or at all;

(q) it failed to implement an adequate system of evaluation, monitoring and control of teachers, administrators and non-teaching staff of the Residential Schools during the Class Period;

(r) (it failed to periodically reassess its regulations, procedures and guidelines for Residential Schools when it knew or ought to have known of serious systemic failures in the Residential Schools during the Class Period;

(s) it failed to close the Residential Schools in Canada and otherwise protect and care for those persons confined therein when it knew or ought to have known that it was appropriate and essential to do so in order to preserve the health, welfare and well being of the Survivor Class Members;

(t) it delegated, attempted to delegate, continued to delegate and improperly delegated its non delegable duties and responsibility for the Survivor Class when

it was incapable to do so and when it knew or ought to have known that these duties and responsibilities were not being met;

(u) it failed to recognize and acknowledge harm once it occurred, to prevent additional harm from occurring and to, whenever and to the extent possible, provide appropriate treatment to those who were harmed;

(v) (it conspired with various Religious organizations including the Churches to eradicate Aboriginal culture in Canada through the implementation of a Residential Schools program in Canada;

(w) it undertook a systematic program of forced integration and assimilation of the Aboriginal Persons through the institution of Residential Schools when it knew or ought to have known that doing so would cause profound and permanent cultural, psychological, emotional and physical injury to the members of the Survivor Class during and following the Class Period;

(x) the effects from the forced integration and assimilation of the Aboriginal Persons violated the *International Covenant on Civil and Political Rights*, in particular Articles 1 and 27 of the convention, ratified by Canada in May, 1976, because it has interfered with the Survivor Class Members', the Family Class Members' and the Deceased Class Members' rights, including, but not limited to:

(i) the right to retain and practice their culture, spirituality, language and traditions;

(ii) the right to fully learn their culture, spirituality, language and traditions from their families, extended families and communities; and,

(iii) the right to teach their culture, spirituality, language and traditions to their own children, grandchildren, extended families and communities.

(y) it was in breach of its obligations to the Survivor Class Members, Family Class Members and Deceased Class Members as set out in the Act and its Treaties with various First Nations providing a right to education at a school to be established and maintained by Canada and which implicitly included the right to education in a safe environment free from abuse and the right to an education which would recognize Aboriginal beliefs, traditions, culture, language and way of life in a way that would not denigrate or eliminate these beliefs, traditions, culture, language and way of life. The Treaties relied on by the Plaintiffs include, but are not limited to, the following Treaties referred to below and the excerpts from these Treaties also provided below, but not limited to the excerpted portions provided:

(i) Treaty No. 1 – "And further, Her Majesty agrees to maintain a school on each reserves hereby made, whenever the Indians of the reserve should desire it.";

(ii) Treaty No. 2 – "And further, Her Majesty agrees to maintain a school in each reserves hereby made, whenever the Indians of the reserves shall desire it.";

(iii) Treaty No. 3 – "And further, Her Majesty agrees to maintain the schools for instruction in such reserves hereby made as Her Government of Her Dominion of Canada may seem advisable whenever the Indians of the reserves shall desire it.";

(iv) Treaty No. 4 – "And further Her Majesty agrees to maintain a school in the reserves allotted to each band as soon as they settle on said reserve and are prepared for a teacher.";

(v) Treaty No. 5 – "And Further Her Majesty agrees to maintain the schools for instruction in such reserves hereby made as to Her Government of the Dominion of Canada may seem advisable, whenever the Indians of the reserve shall desire it.";

(vi) Treaty No. 6 – "And Further, Her Majesty agrees to maintain the schools for instruction in such reserves hereby made as to Her Government of the Dominion of Canada may seem advisable, whenever the Indians of the reserves shall desire it.";

(vii) Treaty No. 7 – "Further, Her Majesty agrees to pay the salary of such teachers to instruct the children of said Indians as to Her Government of Canada may seem advisable, when said Indians are settled on their Reserves and shall desire teachers.";

(viii) Treaty No. 8 – "Further, Her Majesty agrees to pay the salaries of such teachers to instruct the children of said Indians as to Her Majesty's Government of Canada may seem advisable.";

(ix) Treaty No. 9 (The James Bay Treaty) – "Further, His Majesty agrees to pay such salaries of teachers to instruct the children of said Indians, and also to provide such school buildings and educational equipment as may seem advisable to His Majesty's Government of Canada.";

(x) Treaty No. 10 – "Further His Majesty agrees to make such provision as made from time to time be deemed advisable for the education for the Indian children."; and,

(xi) Treaty No. 11 "Further, His Majesty agrees to pay the salaries of teachers to instruct the children of said Indians in such manner as His Majesty's Government may deem advisable."

96. Through its servants, officers, contractors, agents and employees, for those conduct and breaches it is in law responsible, Canada was negligent and in breach of its non delegable,

fiduciary, statutory, moral and common law duties to the Survivor Class, the Deceased Class and the Family Class during the Class Period. Particulars of the negligence and breach of duty (including breach of non-delegable duties) of Canada are as follows:

(a) the selection and employment of incompetent and immoral persons as teaching and non-teaching staff in Residential Schools during the Class Period;

(b) the failure to adequately train or supervise teaching and non-teaching staff employed at Residential Schools;

(c) the failure to report to the proper authorities the physical, psychological, emotional, cultural and sexual abuses to which children in their care were being subjected at Residential Schools during the Class Period;

(d) the failure to provide the necessities of life to Survivor Class Members in their care in Residential Schools during the Class Period;

(e) the knowing cover up of the existence of systematic and widespread abuse of Aboriginal Persons at Residential Schools during the Class Period;

(f) the deprivation of Survivor Class Members in their care of their languages, as well as their religious and cultural beliefs and practices;

(g) the failure to provide Survivor Class Members with an adequate or useful education;

(h) the deprivation of Survivor Class members of contact with their families and of the essential elements of a healthy childhood;

(i) the conspiracy to eradicate aboriginal culture through the Residential School System;

(j) the failure to adequately or properly administer, manage and operate the Residential Schools;

(k) the assault and battery of Survivor Class Members during the Class Period;

(l) the breach of its fiduciary duties to the Survivor Class members and Family Class members by reason of the misfeasances, malfeasances and omissions set out above;

(m) the failure to inspect or audit the Residential Schools adequately or at all;

(n) the failure to implement an adequate system of evaluation, monitoring and control of teachers, administrators and non-teaching staff of the Residential Schools during the Class Period;

(o) the failure to periodically reassess their procedures and guidelines for Residential Schools when they knew or ought to have known of serious systemic failures in the Residential Schools during the Class Period;

(p) the deprivation and reduction of the Class' capacity to parent and maintain normal marital and family ties;

(q) the making of agreements with its agents to suppress information about abuses occurring in the Residential Schools; and

(r) the failure to advance claims against Canada for compensation on behalf of infant Aboriginal persons or deceased Aboriginal persons in a timely manner, or at all.

97. Canada, through its employees, agents or representatives breached its duty of care to protect the Class from sexual abuse by the student perpetrators while those particular Plaintiffs and the Class were attending and residing at the school in the care of a particular Defendant with the result that the student perpetrators did in fact commit sexual abuse upon certain Plaintiffs and the Class.

98. Canada breached its fiduciary duties to the Plaintiffs and the Class and their families by failing to take the steps set out in the preceding paragraph to protect the Class from sexual abuse.

99. In breach of its ongoing fiduciary duty to the Class, Canada failed and continues to fail, to adequately remediate the damage caused by its failures and omissions set out herein. In particular, Canada has failed to take adequate measures to ameliorate the cultural, linguistic and social damage suffered by the class, and further has failed to provide compensation for the physical, sexual and emotional abuse suffered by the Class.

I. CHURCHES' BREACH OF DUTIES TO THE CLASS MEMBERS

100. From the inception of the Residential School system, and until 1969, many Residential Schools throughout Canada were controlled and operated by the Churches. The Churches were responsible for the day-to-day operation and administration of the Residential Schools, including, but not limited to:

(a) admission and transportation of Class Members to the Residential Schools;

(b) the living conditions within the Residential Schools;

(c) the selection, hiring, supervision, discipline and dismissal of staff employed at the Residential Schools;

(d) academic, religious and moral teaching of the Survivor Class Members and the Deceased Class Members;

(e) school curriculum at the Residential Schools; and

(f) the supervision, day to day care, guidance and discipline of the Survivor Class Members and the Deceased Class Members.

101. The Plaintiffs plead and rely upon the allegations contained in paragraphs * through * above with respect to the liability of the Churches.

102. In particular, the Churches:

(a) breached their duties in *loco parentis*;

(b) beached their fiduciary duties by,

(i) permitting unqualified individuals to hire servants, agents and employees to administer and operate the residential school;

(ii) failing to properly supervise and train their servants, agents and employees to administer and operate the residential school;

(iii) failing to have a policy or guidelines, or periodically reassess their procedures and guidelines, for residential schools;

(iv) failing to establish procedures governing the care, custody, control and supervision by their servants, agents and employees over the Plaintiffs;

(v) failing to adequately observe the gross misconduct of agents, servants or employees of the residential school;

(vi) employing incompetent and immoral servants, agents and employees ;

(vii) failing to protect the Class Members from harm;

(viii) depriving the Class Members of contact with their families and the necessities of life;

(ix) failing to protect the Class Members from physical, psychological, emotional and sexual abuses;

(x) failure in general to take proper and reasonable steps to prevent injury to the Plaintiffs physical health and mental well being and moral safety while at the residential schools;

(xi) failing to educate the Class Members in even the most basic of academic skills;

(xii) using the Class Members for manual labour;

(xiii) conspiring with the Crown to remove the Class Members entirely from their aboriginal cultural;

(xiv) failing to adequately inspect or audit the residential schools;

(xv) failing to monitor, supervise, detect or report abuse or, alternatively, suppressed information concerning abuse;

(xvi) breached the Aboriginal Rights and Treaty Rights of the Class Members; and

(xvii) breached their duties of trust they owed to the Class Members.

J. DAMAGES

103. As a consequence of the negligence and breach of duty and breach of a non-delegable or fiduciary duty and intentional infliction of harm by Canada and its agents, for whom Canada is vicariously liable, and the Churches for whom Canada is in law responsible, the Survivor Class Members and the Deceased Class Members, including the Representative Plaintiffs, suffered injury and damages including:

(a) isolation from family and community;

(b) prohibition of the use of Aboriginal language and the practice of Aboriginal religion and culture and the consequential loss of facility and familiarity with Aboriginal language, religion and culture;

(c) forced confinement;

(d) assault and battery;

(e) sexual abuse;

(f) emotional abuse;

(g) psychological abuse;

(h) deprivation of the fundamental elements of an education;

(i) an impairment of mental and emotional health amounting to a severe and permanent disability;

(j) an impaired ability to trust other people or to form or sustain intimate relationships;

(k) a propensity to addiction;

(l) an impaired ability to participate in normal family life;

(m) an impaired ability to control anger and rage;

(n) alienation from family, spouses and children;

(o) an impaired ability to enjoy and participate in recreational, social, athletic and employment activities;

(p) an impairment of the capacity to function in the work place and a permanent impairment in the capacity to earn income;

(q) the need for ongoing psychological, psychiatric and medical treatment for illnesses and other disorders resulting from the Residential School experience;

(r) sexual dysfunction;

(s) depression, anxiety and emotional dysfunction;

(t) suicidal ideation;

(u) pain and suffering;

(v) deprivation of the love and guidance of parents and siblings;

(w) loss of self-esteem and feelings of degradation;

(x) sense of shame, fear and loneliness;

(y) nightmares, flashbacks and sleeping problems;

(z) fear, humiliation and embarrassment as a child and adult, and sexual confusion and disorientation as a child and young adult;

(aa) impaired ability to express emotions in a normal and healthy manner;

(bb) loss of ability fulfill cultural duties;

(cc) loss of ability to live in community; and

(dd) constant and intense emotional, psychological pain and suffering.

104. As a consequence of the negligence and breach of duty and breach of a non-delegable or fiduciary duty and intentional infliction of harm by Canada and its agents, for whom Canada is vicariously liable, and the Churches and their agents, for whom Canada is in law responsible, the Family Class Members, including the Representative Plaintiffs, suffered injury and damages including:

(a) they were separated and alienated from Survivor Class Members and the Deceased Class Members for the duration of their confinement in Residential Schools;

(b) their relationships with Survivor Class Members and Deceased Class Members were impaired, damaged and distorted as the result of the experiences of Survivor Class members and the Deceased Class Members in Residential Schools;

(c) they suffered abuse from Survivor Class members and Deceased Class members as a direct consequence of their Residential School experience;

(d) they were unable to resume normal family life and experience with Survivor Class Members and Deceased Class Members after their return from Residential Schools;

(e) they were deprived of pecuniary support from Survivor Class Members and Deceased Class Members as the direct and indirect consequence of impairments caused by the Residential School experience;

(f) they incurred special and out-of-pocket expenses in their care of Survivor Class Members and Deceased Class Members and were required to provide support and medical care to Survivor Class Members and Deceased Class Members as a direct or indirect consequence of the Residential School experience; and,

(g) their culture and language was undermined and in some cases eradicated by, amongst other things, as pleaded herein, the forced assimilation of Survivor Class Members and Deceased Class Members into non-aboriginal culture through the Residential Schools.

K. VICARIOUS LIABILITY

105. The Plaintiffs state that the Canada and the Churches are vicariously liable for the negligence, malfeasances and misfeasances of their servants, contractors, agents, officers and employees.

L. LIABILITY FOR BREACH OF TREATIES

106. The Plaintiffs plead that Canada was in breach of its various treaty obligations set out above through the Residential School System and experience and is liable for such breaches.

M. GROUNDS FOR PUNITIVE & EXEMPLARY DAMAGES

107. The Plaintiffs plead that Canada and the Churches, including their senior officers, directors, bureaucrats, ministers and executives, had specific and complete knowledge of the widespread physical, psychological, emotional, cultural and sexual abuses of Survivor Class Members which were occurring at Residential Schools during the Class Period. Despite this knowledge, Canada and the Churches continued to operate the schools and permit the perpetration of grievous harm to the Survivor Class Members.

108. In addition, Canada and the Churches deliberately planned the eradication of the language, religion and culture of Survivor Class Members and Family Class Members. Their actions were deliberate and malicious and in the circumstances, punitive, exemplary and aggravated damages are appropriate and necessary.

N. CONSTITUTIONALITY OF SECTIONS OF THE INDIAN ACT

109. The Plaintiffs plead that any section of the Act and its predecessors and any Regulation passed there under and any other statutes relating to Aboriginal Persons that provides or purports to provide the statutory authority for the forcible removal of the Survivor Class Members and Deceased Class Members from their families and communities or for the obligated attendance of the Survivor Class at Residential Schools is, in addition to the reasons set out in paragraph * above, in violation of sections 1 and 2 of the *Canadian Bill of Rights*, R.S.C. 1985, as well as sections 7 and 15 of the *Canadian Charter of Rights and Freedoms* and should therefore be treated as having no force and effect. In particular, the Plaintiffs challenge the constitutionality

of sections 9 and 10 of the Act and superseded by subsequent legislation, and any Regulations past pursuant to section 113 through 118 of the Act and sections 114 through 122 of the Act.

O. APPROPRIATENESS OF A CLASS PROCEEDING

110. As described *supra*, the claims of the Class Members disclose reasonable causes of action against Canada and the Churches. Moreover, their collective claims raise a number of common issues, including, but not limited to:

(a) by their operation or management of Residential Schools during the Class Period, did the Defendants breach a duty of care they owed to the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?

(b) by their purpose, operation or management of Residential Schools during the Class Period, did the Defendants breach a fiduciary duty they owed to the Survivor Class and the Deceased Class or the aboriginal or treaty rights of the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?

(c) by their purpose, operation or management of Residential Schools during the Class Period, did the Defendants breach a fiduciary duty they owed to the Family Class?

(d) if the answer to any of these common issues is yes, can the Court make an aggregate assessment of the damages suffered by all Class members of each class as part of the common trial?

111. Further, a class proceeding is a preferable procedure for the resolution of the common issues as in the vast majority of cases, it would be prohibitively expensive for individual members of the Class to be required to bring separate actions.

112. As there are thousands of Class Members, individual litigation would be repetitive for the parties, especially for Canada and the Churches. Individual litigation would also place an unworkable burden on the judicial system.

113. A class proceeding will greatly increase efficiency for the Class Members, Canada, the Churches and the court, since, in this way, the common issues can be determined in one

proceeding in a court-managed setting with all relevant expert witnesses being required to attend and testify once as opposed to each plaintiff having to prove liability through the calling of experts in multiple actions. The enormous cost savings of proceeding by way of a class proceeding are obvious. Further, the prosecution of several separate individual actions would create the risk of inconsistent or varying adjudications.

114. The claims pursued within this class proceeding are of such a nature that, in the absence of a class proceeding, it is likely that most Class Members would not have access to justice in any meaningful way. It is anticipated that many would not bring their claims forward because of the risks, costs, delays and, in many cases, the amount of damages involved. Moreover, in this case, the Class Members, are by definition, vulnerable and disadvantaged individuals, which further hampers their individual ability pursue their claims on case by case basis.

115. The proposed representatives, who reside in every jurisdiction in which a Residential School operated during the Class Period, and who were subjected to a vast variety of actionable breaches by Canada and the Churches, can fairly and adequately represent the Class and do not have an interest in conflict with the interests of the other Class Members. Their claims are typical of the class as a whole.

116. The Plaintiffs plead and rely upon the following:

Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50, ss. 3, 21, 22, and 23;

Canadian Charter of Rights and Freedoms, ss. 7, 15 and 24;

Constitution Act, 1982, s. 35(1), being Schedule "B" to the *Canada Act, 1982* (U.K.), c. 11.

The Family Law Act (Ontario), R.S.O. 1990, c. F. 3, s. 61;

Fatal Accidents Act (Manitoba), C.C.S.M., c. F50, s.2;

Fatal Accidents Act (Saskatchewan), R.S.S. 1978, c F-11, ss. 3 and 4;

Fatal Accidents Act (Alberta), R.S.A. 2000, c. F-8, ss. 2 and 3;

Family Compensation Act (British Columbia), R.S.B.C. 1996, c. 126, ss. 2 and 3;

Fatal Accidents Act (Yukon), R.S.Y. 2002, c. 86, ss. 2 and 3;

Fatal Accidents Act (Northwest Territories and Nunavut), R.S.N.W.T. 1988, c. F-3, ss. 2 and 3;

Civil Code of Québec, Articles 1457, 1607 and 1611 C.C.Q.;

The Negligence Act (Ontario), R.S.O. 1990, c. N. 1;

The Tortfeasors and Contributory Negligence Act (Manitoba), C.C.S.M. c. T90;

Contributory Negligence Act (Saskatchewan), R.S.S. 1978, c. C-31;

Contributory Negligence Act (Alberta), R.S.A. 2000, c. C-27;

Negligence Act (British Columbia), R.S.B.C. 1996, c. 333;

Contributory Negligence Act (Yukon), R.S.Y. 2002, c. 42;

Contributory Negligence Act (Northwest Territories and Nunavut), R.S.N.W.T. 1988, c. C-18;

The Canadian Bill of Rights, R.S.C. 1985, App. III, Preamble, ss. 1 and 2;

Code of Civil Procedure (Québec), R.S.Q. c. C-25, Articles 999-1051;

Class Proceedings Act, (Ontario), S.O. 1992, c. 6;

The Class Proceedings Act (Manitoba), C.C.S.M., c. C130;

The Class Actions Act (Saskatchewan), S.S. 2001, c. C-12.01;

Class Proceedings Act (Alberta), S.A. 2003, c. C-16.5;

Class Proceedings Act (British Columbia), R.S.B.C. 1996, c. 50;

Judicature Act (Yukon), R,S.Y. 2002, c. 128, s. 38;

Court Rules Act (British Columbia), R.S.B.C. 1996, C.80; *Supreme Court Rules,* B.C. Reg. 221/90, Rule 5(11);

Judicature Act (Northwest Territories), R.S.N.W.T. 1998, c. J-1; *Rules of the Supreme Court of the Northwest Territories,* N.W.T. Reg. 010-96; and

Nunavut Act (Canada), S.C. 1993, c. 28, s. 29.

The Indian Act, S.C. 1951, c. 29, ss. 113-118;

The Indian Act, R.S.C. 1927, c. 98, ss. 9-10; and,

The Indian Act, R.S.C. 1985, ss. 2(1), 3, 18(2), 114-122.

International Treaties:

Convention on the Prevention and Punishment of the Crime of Genocide, Approved and proposed for signature and ratification or accession by General Assembly resolution 260 A (III) of 9 December 1948 *entry into force* 12 January 1951, in accordance with article XIII;

Convention on the Rights of the Child, Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 *entry into force* 2 September 1990, in accordance with article 49; and,

International Covenant on Civil and Political Rights, Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, *entry into force* 23 March 1976, in accordance with Article 49.

Numbered Treaties in Canada

Treaty No. 1 – August 1871 *(Post-Confederation)*
Treaty No. 2 – August 1871 *(Post-Confederation)*
Treaty No. 3 – October 1873 *(Post-Confederation)*
Treaty No. 4 – September 1874 *(Post-Confederation)*
Treaty No. 5 – September 1875 *(Post-Confederation)*
Treaty No. 6 – August-September 1876 *(Post-Confederation)*
Treaty No. 7 – September 1877 *(Post-Confederation)*
Treaty No. 8 – June 1899 *(Post-Confederation)*
Treaty No. 9 – James Bay Treaty – July 1905 *(Post-Confederation)*
Treaty No. 10 – August 1906 *(Post-Confederation)*
Treaty No. 11 – June 1921 *(Post-Confederation)*

Named Treaties in Canada

Peace and Friendship Treaties (1725-1779) *(Pre-Confederation)*
Upper Canada Treaties (1964-1836) *(Pre-Confederation)*
Robinson-Superior Treaty, 1850 *(Pre-Confederation)*
Robinson-Huron Treaty, 1850 *(Pre-Confederation)*
The Manitoulin Treaty, 1862 *(Pre-Confederation)*
Vancouver Island Treaties (1850-1854 the Douglas Treaties *(Pre-Confederation)*
The Williams Treaties (1923): The Chippewa Indians and The Mississauga Indians *(Post-Confederation)*

Place of Trial

117. The Plaintiffs propose that this action be tried at the City of Toronto, in the Province of Ontario.

July 31, 2006

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SCHEDULE "B"

Court File No. 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR. JUSTICE WARREN K. WINKLER	)))	TUESDAY, THE 29TH DAY OF AUGUST, 2006

B E T W E E N:

CHARLES BAXTER SR. and ELIJAH BAXTER

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA, THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA, THE SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE DIOCESE OF ATHBASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE SYNOD OF THE DIOCESE OF BRITISH COLOMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE DIOCESE OF THE SYNOD OF CARIBOO, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE DIOCESE OF MOOSONEE, THE SYNOD OF THE DIOCESE OF WESTMINISTER, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE DIOCESE OF SASKATCHEWAN, THE SYNOD OF THE DIOCESE OF YUKON, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE PRESBYTERIAN CHURCH IN CANADA, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH IN CANADA, THE UNITED CHURCH IN CANADA, THE BOARD OF THE HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE CANADIAN CONFERENCE OF CATHOLIC BISHOPS, THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF CALGARY, THE ROMAN CATHOLIC BISHOP OF KAMLOOPS, THE ROMAN CATHOLIC BISHOP OF THUNDER BAY, THE ROMAN CATHOLIC ARCHBISHOP OF VANCOUVER, THE ROMAN CATHOLIC BISHOP OF VICTORIA, THE ROMAN CATHOLIC BISHOP OF NELSON, THE CATHOLIC EPISCOPAL CORPORATION OF WHITEHORSE, LA CORPORATION

EPISCOPALE CATHOLIQUE ROMAINE DE GROUARD-McLENNAN, THE CATHOLIC ARCHDIOCESE OF EDMONTON, LA DIOCESE DE SAINT-PAUL, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF MacKENZIE, THE ARCHIEPISCOPAL CORPORATION OF REGINA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF KEEWATIN, THE ROMAN CATHOLIC ARCHIEPISCOPAL CORPORATION OF WINNIPEG, LA CORPORATION ARCHIEPISCOPALE CATHOLIQUE ROMAINE DE SAINT-BONIFACE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF THE DIOCESE OF SAULT STE. MARIE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF JAMES BAY, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HUDSON'S BAY, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE PRINCE ALBERT, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF PRINCE RUPERT, THE ORDER OF THE OBLATES OF MARY IMMACULATE IN THE PROVINCE OF BRITISH COLUMBIA, THE MISSIONARY OBLATES OF MARY IMMACULATE-GRANDIN PROVINCE, LES PERES MONTFORTAINS (also known as THE COMPANY OF MARY), JESUIT FATHERS OF UPPER CANADA, THE MISSIONARY OBLATES OF MARY IMMACULATE-PROVINCE OF ST. JOSEPH, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (also known as LES REVERENDS PERES OBLATS DE L'IMMACULEE CONCEPTION DE MARIE), THE OBLATS OF MARY IMMACULATE, ST. PETER'S PROVINCE, LES REVERENDS PERES OBLATS DE MARIE IMMACULEE DES TERRITOIRES DU NORD OUEST, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (PROVINCE DU CANADA-EST), THE SISTERS OF SAINT ANNE, THE SISTERS OF INSTRUCTION OF THE CHILD JESUS (also known as THE SISTERS OF THE CHILD JESUS), THE SISTERS OF CHARITY OF PROVIDENCE OF WESTERN CANADA, THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERT (also known as THE SISTERS OF CHARITY (GREY NUNS) OF ST, ALBERTA), THE SISTERS OF CHARITY (GREY NUNS) OF THE NORTHWEST TERRITORIES, THE SISTERS OF CHARITY (GREY NUNS) ON MONTREAL (also known as LES SOEURS DE LA CHARITÉ (SOEURS GRISES) DE L'HÔPITAL GÉNÉRAL DE MONTREAL), THE GREY SISTERS NICOLET, THE GREY NUNS OF MANITOBA INC. (also known as LES SOEURS GRISES DU MANITOBA INC.), THE SISTERS OF ST. JOSEPH OF SAULT STE. MARIE, LES SOEURS DE SAINT-JOSEPH DE SAINT-HYACINTHE, LES SOEURS DE L'ASSOMPTION DE LA SAINT VIERGE DE NICOLET AND THE SISTERS OF ASSUMPTION, LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE DE L'ALBERTA, THE DAUGHTERS OF THE HEART OF MARY (also known as LA SOCIETE DES FILLES DE COEUR DE MARIE and THE DAUGHTERS OF THE IMMACULATE HEART OF MARY), MISSIONARY OBLATE SISTERS OF SAINT-BONIFACE (also known as MISSIONARY OBLATES OF THE SACRED HEARTS AND MARY IMMACULATE or LES MISSIONAIRES OBLATS DE SAINT-BONIFACE), LES SOEURS DE LA CHARITE D'OTTAWA (SOEURS GRISES DE LA CROIX) (also known as SISTERS OF CHARITY OF OTTAWA – GREY NUNS OF THE CROSS), SISTERS OF THE HOLY NAMES OF JESUS AND MARY (also known as THE RELIGIOUS ORDERS OF JESUS AND MARY and LES SOEURS DE JESUS-MARIE), THE SISTERS OF

THE CHARITY OF ST. VINCENT DE PAUL OF HALIFAX (also known as THE SISTERS OF CHARITY OF HALIFAX), LES SOEURS DE NOTRE DAME AUXILIATRICE, LES SOEURS DE ST. FRANCOIS D'ASSISE, SISTERS OF THE PRESENTATION OF MARY (SOEURS DE LA PRESENTATION DE MARIE), THE BENEDICTINE SISTERS, INSTITUT DES SOEURS DU BON CONSEIL, IMPACT NORTH MINISTRIES and THE BAPTIST CHURCH IN CANADA

Defendants

Proceeding under the *Class Proceedings Act, 1992*

O R D E R

THIS MOTION, for an amendment to the title of proceedings, made by the Plaintiffs, was heard this day at the Court House, 361 University Avenue, Toronto, Ontario, in the presence of counsel for the parties.

ON READING the notion of motion, the joint motion record of the parties, the Settlement Agreement and the facta of the parties,

AND UPON HEARING the submissions of counsel for the Plaintiffs and the Defendants,

1. **THIS COURT ORDERS** that leave is granted to amend this claim in the form attached as Schedule "A" as an Amended Statement of Claim (without underlining) and that the title of proceedings is hereby so amended, including the addition of the third parties as party defendants.

2. **THIS COURT ORDERS** that all defendants listed in Schedule "A" of the Amended Statement of Claim are added, on consent, and solely for the purpose of the approval by this Court of the Agreement and the issuance of this Judgment, and by such consent to be added as defendants are not attorning to the jurisdiction of this Court for any purpose other than the approval by this Court of the Agreement and issuance of this Judgment.

Regional Senior Justice Warren K. Winkler

SCHEDULE "C"

Court File No. 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE JUSTICE WARREN WINKLER — TUESDAY, THE 29TH DAY OF AUGUST, 2006

B E T W E E N:

LARRY PHILIP FONTAINE in his personal capacity and in his capacity as the Executor of the estate of Agnes Mary Fontaine, deceased, MICHELLINE AMMAQ, PERCY ARCHIE, CHARLES BAXTER SR., ELIJAH BAXTER, EVELYN BAXTER, DONALD BELCOURT, NORA BERNARD, JOHN BOSUM, JANET BREWSTER, RHONDA BUFFALO, ERNESTINE CAIBAIOSAI-GIDMARK, MICHAEL CARPAN, BRENDA CYR, DEANNA CYR, MALCOLM DAWSON, ANN DENE, JAMES FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Mary Fontaine, deceased, VINCENT BRADLEY FONTAINE, DANA EVA MARIE FRANCEY, PEGGY GOOD, FRED KELLY, ROSEMARIE KUPTANA, ELIZABETH KUSIAK, THERESA LAROCQUE, JANE McCALLUM, CORNELIUS McCOMBER, VERONICA MARTEN, STANLEY THOMAS NEPETAYPO, FLORA NORTHWEST, NORMAN PAUCHEY, CAMBLE QUATELL, ALVIN BARNEY SAULTEAUX, CHRISTINE SEMPLE, DENNIS SMOKEYDAY, KENNETH SPARVIER, EDWARD TAPIATIC, HELEN WINDERMAN and ADRIAN YELLOWKNEE

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA, THE PRESBYTERIAN CHURCH IN CANADA, THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE EPISCOPAL CORPORATION OF SASKATOON, IMMACULATE HEART COMMUNITY, OMI LACOMBE CANADA INC., THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH THE BAPTIST CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN BAY, THE CANADA IMPACT NORTH MINISTRIES, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE DIOCESE OF SASKATCHEWAN, THE DIOCESE OF THE SYNOD OF CARIBOO, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA , THE MISSIONARY SOCIETY OF

THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE INCORPORATED SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE ANGLICAN CHURCH OF THE DIOCESE OF QUEBEC, THE SYNOD OF THE DIOCESE OF ATHBASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE ANGLICAN SYNOD OF THE DIOCESE OF BRITISH COLOMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE SYNOD OF THE DIOCESE OF NEW WESTMINISTER, THE SYNOD OF THE DIOCESE OF YUKON, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE BOARD OF HOME MISSIONS AND SOCIAL SERVICE OF THE PRESBYTERIAN CHURCH OF CANADA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION, THE SISTERS OF SAINT ANNE, LES MISSIONAIRES OBLATS DE SAINT BONIFACE and THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA

Defendants

PROCEEDING UNDER the following legislation, as appropriate:

(a) In the Province of Alberta: the *Class Proceedings Act*, S.A. 2003, c. C-16.5;

(b) In the Province of British Columbia: the *Class Proceedings Act*, R.S.B.C. 1996, c.50;

(c) In the Province of Manitoba: *The Class Proceedings Act*, C.C.S.M. c. C130;

(d) In the Provinces of Newfoundland and Labrador, Prince Edward Island, New Brunswick, Nova Scotia and Ontario: the *Class Proceedings Act, 1992 (Ontario)*, S.O. 1992, c. 6;

(e) In The Northwest Territories: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg. 010-96;

(f) In Nunavut: Rule 62 of the *Rules of the Supreme Court of the Northwest Territories*, N.W.T. Reg 010-96, as adopted by the Territory by operation of Section 29 of the *Nunavut Act*, S.C. 1993, c. 28.

(g) In the Province of Ontario: the *Class Proceedings Act*, 1992, S.O. 1992, c. 6;

(h) In the Province of Québec: Articles 999–1051 of the *Code of Civil Procedure* (Québec);

(i) In the Province of Saskatchewan: *The Class Actions Act*, S.S. 2001, c.C-12.01; and

(j) In the Yukon Territory: Rule 5(11) of the *Supreme Court Rules (British Columbia.)* B.C. Reg. 220/90 as adopted by the Territory by operation Section 38 of the *Judicature Act (Yukon)* R.S.Y. 2002, c. 128.

JUDGMENT

THIS MOTION, made by the Plaintiffs for certification of this action as a class proceeding and for judgment approving the settlement of the action, in accordance with the terms of the Agreement, was heard August 29, 30 and 31, 2006, at the Court House, at 316 University Avenue, Toronto, Ontario.

ON READING the joint motion record of the parties, the facta of the plaintiffs and the defendants and upon hearing any interested parties,

AND WITHOUT ADMISSION OF LIABILITY on the part of any of the Defendants who deny liability,

AND UPON HEARING the submissions of counsel for the Plaintiffs and the Defendants,

1. **THIS COURT ORDERS AND DECLARES** that for the purpose of this judgment, the following definitions apply:

DEFINITIONS:

a) "Action" means this proceeding, court file number 00-CV-192059CP;

b) "Agreement" means the Settlement Agreement entered into by the parties on May 10th, 2006, with schedules, attached hereto as Schedule "A";

c) "Approval Date" means the date the last court issues its approval order and is the date on which this judgment becomes final;

d) "Approval Orders" means the judgment or orders of the Courts certifying the Class Actions and approving the Agreement as fair, reasonable and in the best interests of the Class Members for the purposes of settlement of the Class Actions pursuant to the applicable class proceedings legislation or the common law;

e) "Canada" means the Defendant, the Government of Canada, as represented in this proceeding by the Attorney General of Canada;

f) "Class" or "Class Members" means:

a. each and every person

i. who, at anytime prior to December 31, 1997, resided at an Indian Residential School in Canada; or

ii. who is a parent, child or sibling or spouse of a person who, at anytime prior to December 31, 1997, resided at an Indian Residential School in Canada,

and,

b. who, at the date of death resided in, or if living, as of the date hereof, resided in:

i. Alberta, for the purposes of the Alberta Court of Queen's Bench;

ii. British Columbia, for the purposes of the Supreme Court of British Columbia;

iii. Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

iv. Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories;

v. Nunavut, for the purposes of the Nunavut Court of Justice;

vi. Ontario, Prince Edward Island, Newfoundland, Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

vii. Quebec, for the purposes of the Quebec Superior Court;

viii. Saskatchewan, for the purposes of the Court of Queen's Bench for Saskatchewan; and

ix. Yukon, for the purposes of the Supreme Court of the Yukon Territory,

but excepting all Excluded Persons.

g) "Class Actions" means the omnibus Indian residential Schools Class Actions Statements of Claim referred to in Article Four (4) of the Agreement;

h) "Class Period" means until December 31, 1997;

i) "Common Experience Payment" means a lump sum payment made to an Eligible CEP Recipient in the manner set out in Article Five (5) of the Agreement;

j) "Court" means, in Alberta, the Alberta Court of Queen's Bench, in British Columbia, the Supreme Court of British Columbia, in Manitoba, the Manitoba Court of Queen's Bench, in the Northwest Territories, the Supreme Court of the Northwest Territories, in Nunavut, the Nunavut Court of Justice, in Ontario, the Ontario Superior Court of Justice, in Quebec, the Quebec Superior Court, in Saskatchewan, the Court of Queen's Bench for Saskatchewan and in the Yukon, the Supreme Court of the Yukon;

k) "Eligible CEP Recipient" means any former Indian Residential School student who resided at any Indian Residential School prior to December 31, 1997 and who was alive on May 30, 2005 and who does not opt out, or is not deemed to have opted out of the Class Actions during the Opt Out Periods or is an Excluded Person;

l) "Excluded Persons" means all persons who attended the Mohawk Institute Residential School in Brantford, Ontario, between 1922 and 1969, and their parents, siblings, spouses and children and any person who opts out of this proceeding in accordance with this judgment;

m) "Forum" means the Alberta Court of Queen's Bench, the Supreme Court of British Columbia, the Manitoba Court of Queen's Bench, the Supreme Court of the Northwest Territories, the Nunavut Court of Justice, the Ontario Superior Court of Justice, the Quebec Superior Court, the Court of Queen's Bench for Saskatchewan and the Supreme Court of the Yukon Territory, and "Fora" refers to them all;

n) "Implementation Date" means the latest of:

   i. the expiry of thirty (30) days following the expiry of the Opt-Out Periods; and

   ii. the date following the last day on which a Class Member in any jurisdiction may appeal or seek leave to appeal any of the Approval Orders; and

   iii. the date of a final determination of any appeal brought in relation to the Approval Orders.

o) "Indian Residential School" means:

   i. institutions listed on List "A" to OIRSRC's Dispute Resolution Process attached to the Agreement as Schedule "E";

   ii. institutions listed in Schedule "F" of the Agreement ("Additional Residential Schools") which may be expanded from time to time in accordance with Article 12.01 of the Agreement; and

iii. any institution which is determined to meet the criteria set out in Sections 12.01(2) and (3) of the Agreement;

p) "Mailing Costs" means the cost of mailing a notice to the Class Members as described in *infra* below;

q) "Notice Costs" means the cost of publishing the Notice at Schedule "D" attached hereto;

r) "Opt Out Period" or "Opt Out Deadline" means the period commencing on the Approval Date as set out in the Approval Orders;

s) "Other Released Church Organizations" includes the Dioceses of the Anglican Church of Canada listed in Schedule "G" of the Agreement and the Catholic entities listed in Schedule "H" of the Agreement, that did not operate an Indian Residential School or did not have an Indian Residential School located within their geographical boundaries and have made, or will make, a financial contribution towards the resolution of claims advanced by persons who attended an Indian Residential School;

t) "Releasees" means, jointly and severally, individually and collectively, the defendants in the Class Actions and each of their respective past and present parents, subsidiaries and related or affiliated entities and their respective employees, agents, officers, directors, shareholders, principals, members, attorneys, insurers, subrogees, representatives, executors, administrators, predecessors, successors, heirs, transferees and assigns and also the entities listed in Schedules "B", "C", "G" and "H" of the Agreement;

u) "Representative Plaintiffs" are those individuals listed as plaintiffs in this title of proceedings;

v) "Spouse" includes a person of the same or opposite sex to a Survivor Class Member who cohabited for a period of at least one year with that Survivor Class Member immediately before his or her death or a person of the same or opposite sex to a Survivor Class Member who was cohabiting with that Survivor Class Member at the date of his or her death and to whom that Survivor Class Member was providing support or was under a legal obligation to provide support on the date of his or her death; and

w) "Trustee" means Her Majesty in right of Canada as represented by the incumbent Ministers from time to time responsible for Indian Residential Schools Resolution and Service Canada. The initial Representative Ministers will be the Minister of Canadian Heritage and Status of Women and the Minister of Human Resources Skills and Development, respectively.

2. **THIS COURT ORDERS** that the Action be and is hereby certified as a Class Proceeding.

3. **THIS COURT ORDERS AND DECLARES** that to the extent the Amended Statement of Claim, the materials filed in connection with the motion for certification and approval of

settlement, or this judgment are inconsistent with the technical rules of civil procedure or rules of court, strict compliance with such rules is waived in order to ensure the most just, expeditious and efficient resolution of this matter.

4. **THIS COURT ORDERS** that the Survivor Class is defined as the following:

All persons who resided at an Indian Residential School in Canada at anytime prior to December 31, 1997, who are living, or who were living as of May 30, 2005, and who, as of the date hereof, or who, at the date of death resided in:

(a) Alberta, for the purposes of the Alberta Court of Queen's Bench;

(b) British Columbia, for the purposes of the Supreme Court of British Columbia;

(c) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

(d) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories; and

(e) Nunavut, for the purposes of the Nunavut Court of Justice;

(f) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

(g) Quebec, for the purposes of the Quebec Superior Court;

(h) Saskatchewan, for the purposes of the Saskatchewan Court of Queen's Bench;

(i) Yukon, for the purposes of the Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

5. **THIS COURT ORDERS** that the Family Class is defined as the following:

All parents, siblings, spouses, children and grandchildren including minors, the unborn and disabled individuals, of all persons who resided at an Indian Residential School in Canada at anytime prior to December 31, 1997, and who, as of the date hereof, are resident in:

(a) Alberta, for the purposes of the Alberta Court of Queen's Bench;

(b) British Columbia, for the purposes of the Supreme Court of British Columbia;

(c) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

(d) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories; and

(e) Nunavut, for the purposes of the Nunavut Court of Justice;

(f) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

(g) Quebec, for the purposes of the Quebec Superior Court;

(h) Saskatchewan, for the purposes of the Saskatchewan Court of Queen's Bench;

(i) Yukon, for the purposes of the Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

6. **THIS COURT ORDERS** that the Deceased Class is defined as the following:

All persons who resided at an Indian Residential School in Canada at anytime prior to December 31, 1997, who died before May 30, 2005, and who were, at their date of death, residents of:

(a) Alberta, for the purposes of the Alberta Court of Queen's Bench;

(b) British Columbia, for the purposes of the Supreme Court of British Columbia;

(c) Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

(d) Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories; and

(e) Nunavut, for the purposes of the Nunavut Court of Justice;

(f) Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any place outside of Canada, for the purposes of the Ontario Superior Court of Justice;

(g) Quebec, for the purposes of the Quebec Superior Court;

(h) Saskatchewan, for the purposes of the Saskatchewan Court of Queen's Bench;

(i) Yukon, for the purposes of the Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

7. **THIS COURT ORDERS** that the Class shall consist of the Survivor Class, the Family Class and the Deceased Class.

8. **THIS COURT ORDERS AND DECLARES** that the Representative Plaintiffs be and are hereby appointed as representatives of the Class.

9. **THIS COURT ORDERS AND DECLARES** that the Representative Plaintiffs are adequate representatives of the Class and comply with the statutory residency requirements in the applicable class proceedings legislation.

10. **THIS COURT ORDERS AND DECLARES** that the common issues in the Action are the following:

a) By their operation or management of Indian Residential Schools during the Class Period, did the Defendants breach a duty of care they owed to the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?

b) By their purpose, operation or management of Indian Residential Schools during the Class Period, did the Defendants breach a fiduciary duty they owed to the Survivor Class and the Deceased Class or the aboriginal or treaty rights of the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?

c) By their purpose, operation or management of Indian Residential Schools during the Class Period, did the Defendants breach a fiduciary duty they owed to the Family Class?

d) If the answer to any of these common issues is yes, can the Court make an aggregate assessment of the damages suffered by all Class members of each class as part of the common trial?

11. **THIS COURT ORDERS AND DECLARES** that the claims by the Class Members for aggravated, exemplary and punitive damages be and hereby are dismissed, without costs and with prejudice.

12. **THIS COURT ORDERS AND DECLARES** that the certification of this Action is conditional on the approval of the settlement and is without prejudice to the Defendants' right to contest certification or to contest the jurisdiction of this court in the future, should the settlement

fail. All materials filed, submissions made or positions taken by any party are without prejudice in the event the settlement fails.

13. **THIS COURT ORDERS AND DECLARES** that the settlement of the Action as particularized in the Agreement is fair, reasonable, adequate and in the best interests of the Class Members.

14. **THIS COURT ORDERS** that the Agreement, which is attached hereto as Schedule "A", and which is expressly incorporated by reference into this judgment, is hereby approved and shall be implemented, and the parties are directed to comply with its terms, subject to any further order of this court.

15. **THIS COURT ORDERS AND DECLARES** that this Court shall supervise the implementation of the Agreement and this judgment and, without limiting the generality of the foregoing, may issue such orders as are necessary to implement and enforce the provisions of the Agreement and this judgment.

16. **THIS COURT ORDERS AND DECLARES** that the Trustee be and is hereby appointed, until further order of this court, on the terms and conditions and with the powers, rights, duties and responsibilities set out in the Agreement and this judgment.

17. **THIS COURT ORDERS AND DECLARES** that each Class Member who does not opt out in accordance with the terms of the Agreement and this judgment and his or her heirs, personal representatives and assigns or its past and present agents, representatives, executors, administrators, predecessors, successors, transferees and assigns, have released and shall be conclusively deemed to have fully, finally and forever released the Defendants and the Other Released Church Organizations and each of their respective past and present parents, subsidiaries and related or affiliated entities and their respective employees, agents, officers, directors, shareholders, partners, principals, members, attorneys, insurers, subrogees, representatives, executors, administrators, predecessor, successors, heirs, transferees and assigns from any and all actions, causes of action, common law and statutory liabilities, contracts, claims and demands of every nature or kind available, asserted or which could have been asserted whether known or unknown including for damages, contribution, indemnity, costs, expenses and interest which

they ever had, now have or may have hereafter have, directly or indirectly or any way relating to or arising directly or indirectly by way of any subrogated or assigned right or otherwise in relation to an Indian Residential School or the operation generally of Indian Residential Schools and this release includes any such claim made or that could have been made in any proceeding including the Class Actions and including claims that belong to the Class Member or personally, whether asserted directly by the Class member or by any other person, group or legal entity on behalf of or as a representative for the Class Member.

18. **AND THIS COURT ORDERS AND DECLARES** for greater certainty that the Releases referred to in paragraph 17 above bind each Class Member who does not opt out in accordance with the terms of the Agreement and this judgment whether or not he or she submits a claim to the Administrator, whether or not he or she is eligible for individual compensation under the Agreements or whether the Class Member's claim is accepted in whole or in part.

19. **THIS COURT ORDERS AND DECLARES** that any individual action brought by a Class Member who does not opt out in accordance with the terms of this judgment are hereby stayed and shall be dismissed on the Implementation Date.

20. **THIS COURT ORDERS AND DECLARES** that any existing class proceeding or representative action brought by a Class Member is hereby stayed and shall be dismissed on the Implementation Date.

21. **THIS COURT ORDERS AND DECLARES** that each Class Member who does not opt out in accordance with the terms of this judgment and each of his or her respective heirs, executors, administrators, personal representatives, agents, subrogees, insurers, successors and assigns shall not make any claim or take any proceeding against any person or corporation, including the Crown, in connection with or related to the claims released pursuant to paragraph 17 of this judgement, who might claim or take a proceeding against the Defendants or Other Released Church Organizations, in any manner or forum, for contribution or indemnity or any other relief at common law or in equity or under the provisions of the *Negligence Act,* R.S.O. 1990 c. n-3, as amended, or its counterpart in other jurisdictions or under any other statute or the rules of court of Ontario or any other jurisdiction. A Class Member who makes any claim or takes any proceeding that is subject to this paragraph shall immediately discontinue such claim

or proceeding and this paragraph shall operate conclusively as a bar to any such action or proceeding.

22. **THIS COURT ORDERS AND DECLARES** that the claims of the Class Members in this action are hereby dismissed, without costs and with prejudice and that such dismissal shall be a defence to any subsequent action in respect of the subject matter hereof.

23. **THIS COURT ORDERS** that no Class Member may opt out of this class proceeding after **[date to be determined]** 2007, without leave of this court.

24. **THIS COURT ORDERS** that no person may opt out a minor or a person who is under a disability without leave of the court after notice to the Public Guardian and Trustee and to the Children's Lawyer, or such other public trustee as may be applicable.

25. **THIS COURT ORDERS** that the Administrator, Crawford Class Action Services, shall, within thirty (30) days of the end of the Opt Out Period, report to this court and advise as to the names of those persons who have opted out of this class proceeding.

26. **THIS COURT ORDERS** that on or before **[date to be determined]** 2006, the Class Members shall be given notice of this judgment and the approval of the Agreement, in accordance with the terms of the Notice Plan attached hereto and at the expense of Canada as set out in the Notice Plan.

27. **THIS COURT DECLARES** that the notice provided in paragraph 26 above, satisfies the requirements of this court and is the best notice practicable under the circumstances.

28. **THIS COURT ORDERS** that forthwith after the publication and delivery of the notice required by paragraph 26 of this judgment, Canada shall serve upon Class Counsel, the Defendants and the Administrator and file with this court affidavits confirming that they have given the notice in accordance with the Notice Plan, the Agreement and this judgment.

29. **THIS COURT ORDERS AND DECLARES** that the Agreement and this judgment are binding upon each Class Member who does not opt out, including those persons who are minors or are mentally incapable and that any requirements or rules of civil procedure which would impose further obligations with respect to this judgment are dispensed with.

30. **THIS COURT ORDERS THAT [designated individual to be determined]** be appointed as Chief Adjudicator until further order of this court, with the duties and responsibilities as set out in the Agreement.

31. **THIS COURT ORDERS AND DECLARES** that no person may bring any action or take any proceedings against the Trustee, its employees, agents, partners, associates, representatives, successors or assigns or against the Chief Adjudicator for any matter in any way relating to the Agreement, the administration of the Agreement or the implementation of this judgment, except with leave of this court on notice to all affected parties,

32. **THIS COURTS DECLARES** that the Representative Plaintiffs, Defendants, Released Church Organizations, Class Counsel or the Trustee, after fully exhausting the dispute resolution mechanisms contemplated in the Agreement, may apply to the Court for directions in respect of the implementation, administration or amendment of the Agreement or the implementation of this judgment on notice to all affected parties, or otherwise in conformity with the terms of the Agreement.

33. **THIS COURT DECLARES** that the Consent and Agreements which were entered into by the Defendants and the Released Church Organizations and this judgment that is issued by this court, is without any admission of liability, that the Defendants and the Released Church Organizations deny liability and that the Consent to the Agreement is not an admission of liability by conduct by the Defendants and that this judgment is deemed to be a without prejudice settlement for evidentiary purposes.

34. **THIS COURT ORDERS AND DECLARES** that in the event that the number of Eligible CEP Recipients who opt out of this class proceeding exceeds five thousand (5,000), the Agreement will be void and this judgment will be set aside in its entirety subject only to the right of Canada, at its sole discretion, to waive compliance with section 4.15 of the Agreement.

35. **THIS COURT DECLARES** that this order will be rendered null and void in accordance with the terms of the Agreement, in the event that the Agreement is not approved in substantially the same terms by way of order or judgment of the court in all of the Fora.

36. **THIS COURT DECLARES** that the provisions of the *Class Proceedings Act, 1992*, shall apply in their entirety to the supervision, operation and implementation of the Agreement and this judgment.

SCHEDULE "D"

Court File No. 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR. JUSTICE WARREN K. WINKLER	)))	MONDAY, THE TWENTY NINTH DAY OF AUGUST, 2006

B E T W E E N:

LARRY PHILIP FONTAINE in his personal capacity and in his capacity as the Executor of the estate of Agnes Mary Fontaine, deceased, MICHELLINE AMMAQ, PERCY ARCHIE, CHARLES BAXTER SR., ELIJAH BAXTER, EVELYN BAXTER, DONALD BELCOURT, NORA BERNARD, JOHN BOSUM, JANET BREWSTER, RHONDA BUFFALO, ERNESTINE CAIBAIOSAI-GIDMARK, MICHAEL CARPAN, BRENDA CYR, DEANNA CYR, MALCOLM DAWSON, ANN DENE, JAMES FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Mary Fontaine, deceased, VINCENT BRADLEY FONTAINE, DANA EVA MARIE FRANCEY, PEGGY GOOD, FRED KELLY, ROSEMARIE KUPTANA, ELIZABETH KUSIAK, THERESA LAROCQUE, JANE McCALLUM, CORNELIUS McCOMBER, VERONICA MARTEN, STANLEY THOMAS NEPETAYPO, FLORA NORTHWEST, NORMAN PAUCHEY, CAMBLE QUATELL, ALVIN BARNEY SAULTEAUX, CHRISTINE SEMPLE, DENNIS SMOKEYDAY, KENNETH SPARVIER, EDWARD TAPIATIC, HELEN WINDERMAN and ADRIAN YELLOWKNEE

Plaintiffs

- and -

THE ATTORNEY GENERAL OF CANADA, THE PRESBYTERIAN CHURCH IN CANADA, THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE EPISCOPAL CORPORATION OF SASKATOON, IMMACULATE HEART COMMUNITY, OMI LACOMBE CANADA INC., THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH THE BAPTIST CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN BAY, THE CANADA IMPACT NORTH MINISTRIES, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE DIOCESE OF SASKATCHEWAN, THE DIOCESE OF THE SYNOD OF CARIBOO, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, THE INCORPORATED

SYNOD OF THE DIOCESE OF HURON, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA , THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE INCORPORATED SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE ANGLICAN CHURCH OF THE DIOCESE OF QUEBEC, THE SYNOD OF THE DIOCESE OF ATHBASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE ANGLICAN SYNOD OF THE DIOCESE OF BRITISH COLOMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE SYNOD OF THE DIOCESE OF NEW WESTMINISTER, THE SYNOD OF THE DIOCESE OF YUKON, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE BOARD OF HOME MISSIONS AND SOCIAL SERVICE OF THE PRESBYTERIAN CHURCH OF CANADA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION, THE SISTERS OF SAINT ANNE, LES MISSIONAIRES OBLATS DE SAINT BONIFACE and THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA

Defendants

ORDER

THIS MOTION, made by the plaintiffs, for an order approving the legal fees recoverable with respect to these proceedings and other related proceedings, was heard on August 29, 30 and 31, 2006, at the Court House, 361 University Avenue, Toronto, Ontario.

ON READING the motion record of the Plaintiffs, the Settlement Agreement dated May 10, 2006 (the "SA"), the affidavit of Darcy Merkur and the facta of the parties, and upon hearing the submissions of counsel,

1. **THIS COURT ORDERS AND DECLARES** that the defendant, the Attorney General of Canada, ("Canada") shall pay legal counsel in respect of their legal fees as set out in Article Thirteen of the SA, and that Article Thirteen of the SA be and hereby is approved.

2. **THIS COURT ORDERS** that, in particular, Canada shall pay the National Consortium (as defined in section 13.07(5) of the SA) forty million dollars ($40,000,000.00) plus GST in the amount of $2,400,000.00, plus HST and PST, where applicable, in the amount $813,048.99, plus disbursements, inclusive of all taxes, of $2,402,173.56, and said legal fees, disbursements and taxes be and hereby are approved.

3. **THIS COURT ORDERS** that all legal fees payable to the National Consortium payable under section 13.08 shall be paid no later than sixty days after the Implementation Date (as defined in Article One of the SA).

4. **THIS COURT ORDERS AND DECLARES** that the payments referred to above represent fair and reasonable compensation to the National Consortium.

5. **THIS COURT ORDERS AND DECLARES** that the National Consortium has otherwise waived any contingency fee agreements it has with the class members with respect to receipt of the Common Experience Payment, in accordance with the provisions of the SA.

_____

Court File No. 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

CHARLES BAXTER, SR. AND ELIJAH BAXTER

Plaintiffs

- and –

THE ATTORNEY GENERAL OF CANADA

Defendant

- and –

THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA, THE SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE DIOCESE OF ATHABASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE SYNOD OF THE DIOCESE OF BRITISH COLUMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF CARIBOO, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE DIOCESE OF MOOSONEE, THE SYNOD OF THE DIOCESE OF WESTMINISTER, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE DIOCESE OF SASKATCHEWAN, THE SYNOD OF THE DIOCESE OF YUKON, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE PRESBYTERIAN CHURCH IN CANADA, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH IN CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE CANADIAN CONFERENCE OF CATHOLIC BISHOPS, THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF CALGARY, THE ROMAN CATHOLIC BISHOP OF KAMLOOPS, THE ROMAN CATHOLIC BISHOP OF THUNDER BAY, THE ROMAN CATHOLIC ARCHBISHOP OF VANCOUVER, THE ROMAN CATHOLIC BISHOP OF VICTORIA, THE ROMAN CATHOLIC BISHOP OF NELSON, THE CATHOLIC EPISCOPAL CORPORATION OF WHITEHORSE, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE GROUARD – McLENNAN, THE

CATHOLIC ARCHDIOCESE OF EDMONTON, LA DIOCESE DE SAINT-PAUL, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF MACKENZIE, THE ARCHIEPISCOPAL CORPORATION OF REGINA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF KEEWATIN, THE ROMAN CATHOLIC ARCHIEPISCOPAL CORPORATION OF WINNIPEG, LA CORPORATION ARCHIEPISCOPALE CATHOLIQUE ROMAINE DE SAINT-BONIFACE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF THE DIOCESE OF SAULT STE. MARIE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF JAMES BAY, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HUDSON'S BAY, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE PRINCE ALBERT, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF PRINCE RUPERT, THE ORDER OF THE OBLATES OF MARY IMMACULATE IN THE PROVINCE OF BRITISH COLUMBIA, THE MISSIONARY OBLATES OF MARY IMMACULATE – GRANDIN PROVINCELES PERES MONTFORTAINS (also known as THE COMPANY OF MARY), JESUIT FATHERS OF UPPER CANADA, THE MISSIONARY OBLATES OF MARY IMMACULATE – PROVINCE OF ST. JOSEPH, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (also known as LES REVERENDS PERES OBLATS DE L'IMMACULEE CONCEPTION DE MARIE), THE OBLATES OF MARY IMMACULATE, ST. PETER'S PROVINCE, LES REVERENDS PERES OBLATS DE MARIE IMMACULEE DES TERRITOIRES DU NORD OUEST, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (PROVINCE U CANADA – EST), THE SISTERS OF SAINT ANNE, THE SISTERS OF INSTRUCTION OF THE CHILD JESUS (also known as THE SISTERS OF THE CHILD JESUS), THE SISTERS OF CHARITY OF PROVIDENCE OF WESTERN CANADA, THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERT (also known as THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERTA), THE SISTERS OF CHARITY (GREY NUNS) OF THE NORTHWEST TERRITORIES, THE SISTERS OF CHARITY (GREY NUNS) OF MONTREAL (also known as LES SOEURS DE LA CHARITÉ (SOEURS GRISES) DE I'HÔPITAL GÉNÉRAL DE MONTREAL), THE GREY SISTERS NICOLET, THE GREY NUNS OF MANITOBA INC. (also known as LES SOEURS GRISES DU MANITOBA INC.), THE SISTERS OF ST. JOSEPH OF SAULT STE. MARIE, LES SOEURS DE SAINT-JOSEPH DE ST-HYACINTHE and INSTITUT DES SOEURS DE SAINT-JOSEPH DE SAINT-HYACINTHE LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE (also known as LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE) DE NICOLET AND THE SISTERS OF ASSUMPTION, LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE DE L'ALBERTA, THE DAUGHTERS OF THE HEART OF MARY (also known as LA SOCIETE DES FILLES DU COEUR DE MARIE and THE DAUGHTERS OF THE IMMACULATE HEART OF MARY), MISSIONARY OBLATE SISTERS OF SAINT-BONIFACE (also known as MISSIONARY OBLATES OF THE SACRED HEART AND MARY IMMACULATE, or LES MISSIONAIRES OBLATS DE SAINT-BONIFACE), LES SOEURS DE LA CHARITE D'OTTAWA (SOEURS GRISES DE LA CROIX) (also known as SISTERS OF CHARITY OF OTTAWA - GREY NUNS OF THE CROSS), SISTERS OF THE HOLY NAMES OF JESUS AND MARY (also known as THE RELIGIOUS ORDER OF

JESUS AND MARY and LES SOEURS DE JESUS-MARIE), THE SISTERS OF CHARITY OF ST. VINCENT DE PAUL OF HALIFAX (also known as THE SISTERS OF CHARITY OF HALIFAX), LES SOEURS DE NOTRE DAME AUXILIATRICE, LES SOEURS DE ST. FRANCOIS D'ASSISE, SISTERS OF THE PRESENTATION OF MARY (SOEURS DE LA PRESENTATION DE MARIE), THE BENEDICTINE SISTERS, INSTITUT DES SOEURS DU BON CONSEIL, IMPACT NORTH MINISTRIES, THE BAPTIST CHURCH IN CANADA

Third Parties

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF JONATHAN PTAK
(sworn July 28, 2006)

I, Jonathan Ptak, of the City of Toronto, MAKE OATH AND SAY:

1. I am a Lawyer with Koskie Minsky LLP, National Class Action Counsel, and as such have knowledge of the matters hereinafter deposed.

2. I am informed by Celeste Poltak, an associate at Koskie Minsky LLP with primary carriage of this matter, that the attached are true copies of the Affidavits of the following affiants:

Affidavit of the Honourable Frank Iacobucci, Q.C., sworn July 28, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Chief Larry Phillip Fontaine, sworn July 28, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Rob Robson, sworn July 9, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of David Russell, sworn July 25, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Len Marchand, sworn July 27, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Affidavit of Richard Courtis, sworn July 27, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Donald Belcourt, sworn July 14, 2006, in Action No. 9901 15362, in the Court of Queen's Bench of Alberta, Judicial District of Calgary.

Affidavit of Brian O'Reilly, sworn July 27, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Affidavit of Nora Madeline Bernard, sworn July 10, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Todd Hilsee, sworn May 17, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Todd Hilsee, sworn June 29, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Todd Hilsee, sworn July 26, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Kerry Eaton, sworn July 13, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of James Bruce Boyles, sworn June 1, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of James Vincent Scott, sworn June 14, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Stephen Kendall, sworn June 2, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Sister Bernadette Poirier s.g.m., sworn May 17, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Father Jacques Gagné, sworn April 8, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Archbishop Joseph Edmond Emilius Goulet, sworn April 28, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Sister Gloria Keylor s.p., sworn May 18, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Father Jacques L'Heureux, sworn April 8, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Father Camille Piche, sworn May 18, 2006, in Action No. Q.B.G. No. 816 of 2005, in the Court of Queen's Bench, Judicial Centre of Regina, Saskatchewan.

Affidavit of Father Bernard Pinet, sworn April 19, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Father Cécil Fortier, sworn April 19, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Bishop Gary Gordon, sworn June 15, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Affidavit of Sister Dorothy Jean Beyer, sworn February 28, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Affidavit of Sister Pauline Phaneuf, sworn July 7, 2006.

Affidavit of Sister Suzanne Tremblay, sworn June 30, 2006.

Affidavit of Sister Robéa Duguay, sworn June 30, 2006.

Affidavit of Sister Pearl Goudreau, sworn June 29, 2006.

Affidavit of Sister Denise Brochu, sworn June 29, 2006.

Affidavit of Sister Suzanne Bridet, sworn June 29, 2006.

Affidavit of Sister Diane Beaudoin, sworn June 29, 2006.

Affidavit of Sister Gloria Paradis, sworn June 30, 2006.

Affidavit of Darcy Merkur, sworn July 28, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Sandra Staats, sworn July 15, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Affidavit of Percy Archie, sworn July 7, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Affidavit of Charles Baxter, sworn June 17, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Elijah Baxter, sworn May 12, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Evelyn Baxter, sworn July 19, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Janet Brewster, sworn July 21, 2006, in Action No. 08-05-401 CVC, in the Superior Court of Nunavut.

Affidavit of John Bosum, sworn July 25, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Affidavit of Malcolm Dawson, sworn July 24, 2006, in Action No. S.C. No. 05-A0140, in the Supreme Court of Yukon Territory.

Affidavit of Vincent Bradley Fontaine, sworn July 14, 2006, in Action No. CI 05-01-43585, in the Court of Queen's Bench, Winnipeg Centre, Manitoba.

Affidavit of Elizabeth Kusiak, sworn July 13, 2006, in Action No. 9901 15362, in the Court of Queen's Bench of Alberta, Judicial District of Calgary.

Affidavit of Theresa Ann Larocque, sworn July 13, 2006, in Action No. 9901 15362, in the Court of Queen's Bench of Alberta, Judicial District of Calgary.

Affidavit of Veronica Marten, sworn July 14, 2006, in Action No. 9901 15362, in the Court of Queen's Bench of Alberta, Judicial District of Calgary.

Statutory Declaration of Michelline Ammaq, declared February 28, 2006, in Action No. 08-05-401 CVC, in the Superior Court of Nunavut.

Statutory Declaration of Rhonda Buffalo, declared March 20, 2006, in Action No. Q.B.G. No. 816 of 2005, in the Court of Queen's Bench, Judicial Centre of Regina, Saskatchewan.

Statutory Declaration of Ernestine Caibaisosai-Gidmark, declared March 23, 2006, in Action No. 00-CV-192059CP, in the Ontario Superior Court of Justice.

Statutory Declaration of Michael Carpan, declared July 7, 2006, in Action No. 9901 15362, in the Court of Queen's Bench of Alberta, Judicial District of Calgary.

Statutory Declaration of Ann Dene, declared March 15, 2006, in Action No. 500-06-000293-056 and 550-06-000021-056 (Hull), in the Superior Court of Quebec.

Statutory Declaration of James Fontaine, declared March 9, 2006, in Action No. CI 05-01-43585, in the Court of Queen's Bench, Winnipeg Centre, Manitoba.

Statutory Declaration of Peggy Good, declared March 20, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Statutory Declaration of Fred Kelly, declared March 13, 2006, in Action No. CI 05-01-43585, in the Court of Queen's Bench, Winnipeg Centre, Manitoba.

Statutory Declaration of Jane McCallum, declared March 3, 2006, in Action No. Q.B.G. No. 816 of 2005, in the Court of Queen's Bench, Judicial Centre of Regina, Saskatchewan.

Statutory Declaration of Cornelius McComber, declared March 8, 2006, in Action No. 500-06-000293-056 and 550-06-000021-056 (Hull), in the Superior Court of Quebec.

Statutory Declaration of Stanley Nepetaypo, declared March 1, 2006, in Action No. CI 05-01-43585, in the Court of Queen's Bench, Winnipeg Centre, Manitoba.

Statutory Declaration of Flora Northwest, declared March 6, 2006, in Action No. 9901 15362, in the Court of Queen's Bench of Alberta, Judicial District of Calgary.

Statutory Declaration of Norman Pauchay, declared March 3, 2006, in Action No. Q.B.G. No. 816 of 2005, in the Court of Queen's Bench, Judicial Centre of Regina, Saskatchewan.

Statutory Declaration of Camble Quatell, declared March 1, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Statutory Declaration of Alvin Saulteaux, declared March 7, 2006, in Action No. Q.B.G. No. 816 of 2005, in the Court of Queen's Bench, Judicial Centre of Regina, Saskatchewan.

Statutory Declaration of Christine Semple, declared March 9, 2006, in Action No. S.C. No. 05-A0140 in the Supreme Court of Yukon Territory.

Statutory Declaration of Dennis Smokeyday, declared February 28, 2006, in Action No. Q.B.G. No. 816 of 2005, in the Court of Queen's Bench, Judicial Centre of Regina, Saskatchewan.

Statutory Declaration of Kenneth Sparvier, declared June 24, 2006, in Action No. Q.B.G. No. 816 of 2005, in the Court of Queen's Bench, Judicial Centre of Regina, Saskatchewan.

Statutory Declaration of Edward Tapiatic, declared March 13, 2006, in Action No. 500-06-000293-056 and 550-06-000021-056 (Hull), in the Superior Court of Quebec.

Statutory Declaration of Helen Winderman, declared July 6, 2006, in Action No. L051875, in the Supreme Court of British Columbia.

Statutory Declaration of Adrian Yellowknee, declared March 16, 2006, in Action No. 9901 15362, in the Court of Queen's Bench of Alberta, Judicial District of Calgary.

SWORN BEFORE ME at the City of Toronto, on July 28, 2006.

Commissioner for Taking Affidavits

Celeste Poltak

JONATHAN PTAK

BAXTER, ET AL V. ATTORNEY GENERAL	V.	SYNOD OF THE ANGLICAN CHURCH OF CANADA, ET AL.	Court File No: 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at Toronto

AFFIDAVIT OF JONATHAN PTAK
(Sworn July 28, 2006)

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Solicitors for the plaintiffs

Court File No. 00-CV-192059CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

CHARLES BAXTER, SR. AND ELIJAH BAXTER

Plaintiffs

- and –

THE ATTORNEY GENERAL OF CANADA

Defendant

- and –

THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE ANGLICAN CHURCH OF CANADA, THE SYNOD OF THE DIOCESE OF ALGOMA, THE SYNOD OF THE DIOCESE OF ATHABASCA, THE SYNOD OF THE DIOCESE OF BRANDON, THE SYNOD OF THE DIOCESE OF BRITISH COLUMBIA, THE SYNOD OF THE DIOCESE OF CALGARY, THE SYNOD OF THE DIOCESE OF CARIBOO, THE INCORPORATED SYNOD OF THE DIOCESE OF HURON, THE SYNOD OF THE DIOCESE OF KEEWATIN, THE DIOCESE OF MOOSONEE, THE SYNOD OF THE DIOCESE OF WESTMINISTER, THE SYNOD OF THE DIOCESE OF QU'APPELLE, THE DIOCESE OF SASKATCHEWAN, THE SYNOD OF THE DIOCESE OF YUKON, THE COMPANY FOR THE PROPAGATION OF THE GOSPEL IN NEW ENGLAND (also known as THE NEW ENGLAND COMPANY), THE PRESBYTERIAN CHURCH IN CANADA, THE TRUSTEE BOARD OF THE PRESBYTERIAN CHURCH IN CANADA, THE FOREIGN MISSION OF THE PRESBYTERIAN CHURCH IN CANADA, BOARD OF HOME MISSIONS AND SOCIAL SERVICES OF THE PRESBYTERIAN CHURCH IN CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE PRESBYTERIAN CHURCH IN CANADA, THE UNITED CHURCH OF CANADA, THE BOARD OF HOME MISSIONS OF THE UNITED CHURCH OF CANADA, THE WOMEN'S MISSIONARY SOCIETY OF THE UNITED CHURCH OF CANADA, THE METHODIST CHURCH OF CANADA, THE MISSIONARY SOCIETY OF THE METHODIST CHURCH OF CANADA (also known as THE METHODIST MISSIONARY SOCIETY OF CANADA), THE CANADIAN CONFERENCE OF CATHOLIC BISHOPS, THE ROMAN CATHOLIC BISHOP OF THE DIOCESE OF CALGARY, THE ROMAN CATHOLIC BISHOP OF KAMLOOPS, THE ROMAN CATHOLIC BISHOP OF THUNDER BAY, THE ROMAN CATHOLIC ARCHBISHOP OF VANCOUVER, THE ROMAN CATHOLIC BISHOP OF VICTORIA, THE ROMAN CATHOLIC BISHOP OF NELSON, THE CATHOLIC EPISCOPAL CORPORATION OF WHITEHORSE, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE GROUARD – McLENNAN, THE

CATHOLIC ARCHDIOCESE OF EDMONTON, LA DIOCESE DE SAINT-PAUL, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF MACKENZIE, THE ARCHIEPISCOPAL CORPORATION OF REGINA, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF KEEWATIN, THE ROMAN CATHOLIC ARCHIEPISCOPAL CORPORATION OF WINNIPEG, LA CORPORATION ARCHIEPISCOPALE CATHOLIQUE ROMAINE DE SAINT-BONIFACE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF THE DIOCESE OF SAULT STE. MARIE, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF JAMES BAY, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HALIFAX, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF HUDSON'S BAY, LA CORPORATION EPISCOPALE CATHOLIQUE ROMAINE DE PRINCE ALBERT, THE ROMAN CATHOLIC EPISCOPAL CORPORATION OF PRINCE RUPERT, THE ORDER OF THE OBLATES OF MARY IMMACULATE IN THE PROVINCE OF BRITISH COLUMBIA, THE MISSIONARY OBLATES OF MARY IMMACULATE – GRANDIN PROVINCELES PERES MONTFORTAINS (also known as THE COMPANY OF MARY), JESUIT FATHERS OF UPPER CANADA, THE MISSIONARY OBLATES OF MARY IMMACULATE – PROVINCE OF ST. JOSEPH, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (also known as LES REVERENDS PERES OBLATS DE L'IMMACULEE CONCEPTION DE MARIE), THE OBLATES OF MARY IMMACULATE, ST. PETER'S PROVINCE, LES REVERENDS PERES OBLATS DE MARIE IMMACULEE DES TERRITOIRES DU NORD OUEST, LES MISSIONAIRES OBLATS DE MARIE IMMACULEE (PROVINCE U CANADA – EST), THE SISTERS OF SAINT ANNE, THE SISTERS OF INSTRUCTION OF THE CHILD JESUS (also known as THE SISTERS OF THE CHILD JESUS), THE SISTERS OF CHARITY OF PROVIDENCE OF WESTERN CANADA, THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERT (also known as THE SISTERS OF CHARITY (GREY NUNS) OF ST. ALBERTA), THE SISTERS OF CHARITY (GREY NUNS) OF THE NORTHWEST TERRITORIES, THE SISTERS OF CHARITY (GREY NUNS) OF MONTREAL (also known as LES SOEURS DE LA CHARITÉ (SOEURS GRISES) DE I'HÔPITAL GÉNÉRAL DE MONTREAL), THE GREY SISTERS NICOLET, THE GREY NUNS OF MANITOBA INC. (also known as LES SOEURS GRISES DU MANITOBA INC.), THE SISTERS OF ST. JOSEPH OF SAULT STE. MARIE, LES SOEURS DE SAINT-JOSEPH DE ST-HYACINTHE and INSTITUT DES SOEURS DE SAINT-JOSEPH DE SAINT-HYACINTHE LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE (also known as LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE) DE NICOLET AND THE SISTERS OF ASSUMPTION, LES SOEURS DE L'ASSOMPTION DE LA SAINTE VIERGE DE L'ALBERTA, THE DAUGHTERS OF THE HEART OF MARY (also known as LA SOCIETE DES FILLES DU COEUR DE MARIE and THE DAUGHTERS OF THE IMMACULATE HEART OF MARY), MISSIONARY OBLATE SISTERS OF SAINT-BONIFACE (also known as MISSIONARY OBLATES OF THE SACRED HEART AND MARY IMMACULATE, or LES MISSIONAIRES OBLATS DE SAINT-BONIFACE), LES SOEURS DE LA CHARITE D'OTTAWA (SOEURS GRISES DE LA CROIX) (also known as SISTERS OF CHARITY OF OTTAWA - GREY NUNS OF THE CROSS), SISTERS OF THE HOLY NAMES OF JESUS AND MARY (also known as THE RELIGIOUS ORDER OF

JESUS AND MARY and LES SOEURS DE JESUS-MARIE), THE SISTERS OF CHARITY OF ST. VINCENT DE PAUL OF HALIFAX (also known as THE SISTERS OF CHARITY OF HALIFAX), LES SOEURS DE NOTRE DAME AUXILIATRICE, LES SOEURS DE ST. FRANCOIS D'ASSISE, SISTERS OF THE PRESENTATION OF MARY (SOEURS DE LA PRESENTATION DE MARIE), THE BENEDICTINE SISTERS, INSTITUT DES SOEURS DU BON CONSEIL, IMPACT NORTH MINISTRIES, THE BAPTIST CHURCH IN CANADA

Third Parties

Proceeding under the *Class Proceedings Act, 1992*

AFFIDAVIT OF FRANK IACOBUCCI
(sworn July 28, 2006)

I, Frank Iacobucci, Q.C., Barrister and Solicitor, of the City of Toronto in the Province of Ontario **MAKE OATH AND SAY**:

Purpose of My Affidavit

1. I am the Federal Representative appointed by the Government of Canada to negotiate a settlement of the Indian Residential Schools litigation and as such have knowledge of the matters to which I depose herein. The purpose of my affidavit is to describe the assignment I was given as the Federal Representative, explain the process we followed for settlement discussions, and provide my views as to why this settlement is fair and reasonable.

My Assignment as Federal Representative

2. I retired from the Supreme Court of Canada in June 2004, having served on that court for over 13 years. From September 2004 to June 2005, I served as interim President of the University of Toronto. On July 1, 2005, I joined Torys LLP as Counsel.

3. On May 30, 2005, I was appointed by Canada as Federal Representative in accordance with the Political Agreement entered into between Canada and the Assembly of First Nations to lead discussions with interested parties towards the resolution of the legacy of Indian Residential Schools. A copy of the Political Agreement is attached to my affidavit as Exhibit "A".

4. My role as Federal Representative was to make recommendations to Canada that would achieve a fair and lasting resolution of the negative experiences of former students of Indian Residential Schools including the resolution of all individual and class actions. It was intended that any settlement would include all former Indian Residential School students whether or not they are currently pursuing claims against Canada.

5. As part of my role, I was authorized to make recommendations to Canada for a comprehensive settlement package, components of which would include a payment that recognizes the common experience of all former Indian Residential School students, a revised dispute resolution process to deal with claims of sexual abuse and serious physical abuse, payment of legal fees to both class counsel and individual plaintiffs' counsel, and truth and reconciliation, healing, and commemorative initiatives. In consideration for providing this settlement package, Canada would seek releases from former students in respect of all causes of action, of every nature or kind available, arising directly or indirectly from the operation of Indian Residential Schools, except for those who choose to opt out of the settlement.

6. At the time of my appointment, there were more than 13,500 individual claims filed by former students against Canada and approximately 11 class actions seeking damages as a result of their attendance at an Indian Residential School. The claims filed against Canada also named various religious entities, including the General Synod and Dioceses of the Anglican Church of Canada, the United Church of Canada, The Presbyterian Church in Canada, and a number of Roman Catholic entities.

7. In order to carry out my assignment, I concluded that I would need to consult and negotiate extensively with various stakeholders and interested parties, including class and individual plaintiffs' counsel, counsel for church defendants, and various Aboriginal organizations including the Assembly of First Nations.

Negotiation Process

8. By letter dated June 1, 2005, attached as Exhibit "B" to my affidavit, I informed interested parties of my appointment and outlined the nature of the process I proposed to undertake. I also advised interested parties that I would recommend to Cabinet a broad

settlement package regarding residential schools. The resolution of both pending class and individual actions against the government was an important objective of my assignment. I further advised that I would be meeting with plaintiffs' counsel, church counsel, and representatives from the Assembly of First Nations and other Aboriginal organizations.

9. In a subsequent letter dated July 4, 2005, attached as Exhibit "C" to my affidavit, I invited all plaintiffs' counsel with Indian Residential Schools claims to attend a meeting in Saskatoon, Saskatchewan on July 20, 2005. I also invited counsel representing religious entities as well as counsel for the Assembly of First Nations.

10. The purpose of the July 20, 2005 meeting was to commence discussions with all interested parties, to outline the nature of my assignment, and to establish a framework for the negotiation process.

11. In a letter dated July 15, 2005, attached as Exhibit "D" to my affidavit, I sent a schedule for future meetings to all plaintiffs' counsel. That schedule contemplated weekly meetings at various locations across Canada so as to give plaintiffs' counsel the greatest opportunity to participate in the settlement negotiations. The schedule was later extended to include a series of additional meetings in Toronto. The counsel meetings held were as follows:

- August 2 and 3, 2005 at Toronto;
- August 10 and 11, 2005 at Edmonton;
- August 16 and 17, 2005 at Vancouver;
- August 23 and 24, 2005 at Toronto;
- September 12 and 13, 2005 at Calgary;
- September 27, 2005 at Toronto;
- October 11, 12 and 13, 2005 at Toronto;

- November 3 and 4, 2005 at Toronto;
- November 16 – 20, 2005 at Toronto; and
- January 30 – February 1, 2006 at Toronto.

12. At every meeting an agenda was prepared and circulated. Jointly prepared minutes were kept and distributed. We canvassed and negotiated a broad range of topics at each meeting, including the confidentiality of the process, a Common Experience Payment, the Independent Assessment Process, healing and reconciliation issues, eligible schools and institutions, settlement implementation issues, and counsel fees.

13. In addition to the counsel meetings referred to at paragraphs 9 to 11 herein, from June 6, 2005 to the present I have personally met with or spoken to a broad range of individuals or groups in an effort to consult fully with all interested parties and to effect an appropriate resolution of the legacy of Indian Residential Schools. I have met with representatives from the British Columbia Survivors Society, the Aboriginal Healing Foundation, the Native Women's Association, and the Metis National Council to name but a few. These meetings included a meeting with Matthew Mukash, Grand Chief of the Grand Council of the Crees. A copy of a chart describing my meetings and telephone discussions is attached to my affidavit as Exhibit "E".

14. The Aboriginal and Inuit stakeholders and parties who actively participated in these meetings included counsel and representatives of the Assembly of First Nations, counsel for the Grand Council of the Crees, counsel for the Nunavut Tunngavik Inc., counsel for the Inuvialuit Regional Corporation, counsel for the Inuit of Nunavik (Northern Quebec), and counsel for the Inuit of Nunavut.

15. I believe that roughly 30 to 40 plaintiffs' counsel attended each meeting and that plaintiffs from every province and territory in which Indian Residential Schools operated were represented by counsel throughout the course of these negotiations.

16. At every meeting, all counsel and stakeholders took the opportunity to make their positions known on a broad range of issues, either orally or in writing. A number of working

groups consisting of counsel or representatives from Canada, the church organizations, plaintiffs and other stakeholders were struck to consider various issues. For example, a working group was formed to consider and make recommendations to me on a revised and improved Alternative Dispute Resolution process. That working group continues to meet and make recommendations to me on an ongoing basis. We also created a working group that retained Siggner & Associates Inc., experts in statistics respecting Aboriginal peoples, to provide an estimate of the living former students of Indian Residential Schools. A copy of the Siggner report is attached to the affidavit of Richard Courtis filed in this motion.

17. Though I had no authority to bind Canada, it was my task to review the recommendations made by the parties, report to Ministers on the positions being advanced by various parties throughout the negotiations, and offer my recommendations to Ministers. I would then convey the Government of Canada's position to the parties. Where no consensus could be reached, further negotiations would ensue. This was the process adopted on each issue considered throughout the 10 month negotiation process.

18. Owing to the complexity and the sensitivity of the issues to be resolved, coupled with the large number and disparate positions of the parties, the negotiation process was arduous and protracted. I believe that all the issues were vigorously and thoroughly canvassed by all parties to this process.

Indian Residential Schools Settlement Agreement

19. On November 20, 2005, the parties concluded these negotiations by executing the Agreement in Principle which is attached as Exhibit "F" to my affidavit.

20. As the Federal Representative, I signed the Agreement in Principle on November 20, 2005 and, by so doing, recommended to Canada that the Agreement in Principle form the basis of a comprehensive settlement package. On November 22, 2005, the Agreement in Principle was approved by the Cabinet of the previous government.

21. On May 10, 2006, the Cabinet of the present government approved the comprehensive Settlement Agreement, now shown to me and filed with the Court in Volumes I and II of the Joint Motion Record.

22. In recognition of the urgency of the issues and because of the deaths of approximately 20 to 25 elderly former students per week, I recommended to Canada and Canada approved an advance payment of $8,000.00 payable to eligible former Indian Residential School Students who were 65 years or older on or before May 30, 2005. Although not part of the Settlement Agreement, Canada commenced the advance payment process on May 11, 2006.

23. The parties to these negotiations have reached a Settlement Agreement which is now subject to this Honourable Court's approval. The Settlement Agreement goes beyond monetary compensation for the common experience of attending an Indian Residential School to provide support for healing, commemorative initiatives, and an improved Independent Assessment Process for claims of serious physical abuse and sexual abuse, among other things. The main features of the Settlement Agreement may be summarized as follows:

Common Experience Payment (Article Five of the Settlement Agreement)

- $1.9 Billion dollars has been set aside by Canada to fund this payment.
- The Common Experience Payment will be made to each former residential student who was living as at May 30, 2005.
- Upon application, each eligible former student will receive $10,000 for his or her first year of attendance at a residential school plus an additional $3,000 for each subsequent year of attendance.
- If there is a surplus once all Common Experience Payments have been made, Personal Credits for individual or group educational opportunities to a maximum of $3,000 will be available to recipients of the Common Experience Payment.
- Canada will bear the risk of any insufficiency in the Common Experience Payment.
- Canada will assume the cost of verifying claims for the Common Experience Payment and administrative expenses relating to their distribution.

Independent Assessment Process (Article Six and Schedule "D" of the Settlement Agreement)

- An improved administrative dispute resolution process, now called the Independent Assessment Process (the "IAP"), will address sexual abuse and serious physical abuse claims.
- Where a former student accepts a Common Experience Payment, the IAP process will become the exclusive vehicle by which that student may pursue a further claim for sexual or serious physical abuse.
- Compensation through the IAP process will be paid at 100% by Canada in all cases following validation of the claim by an independent adjudicator.
- Where compensation is paid, a release will be executed by the former student in favour of Canada and the religious entity involved.
- Payments under the grid of the IAP will be increased over the payments made under the present administrative dispute resolution process and standardized across Canada.
- Liability for sexual and physical abuse will be extended beyond employees of the institution to include any adult person lawfully on the premises of the residential school;
- Liability for abuse by other students will be extended beyond sexual abuse to include physical abuse. Where the assaults are serious sexual assaults, the onus will be on Canada and the religious entity involved to show that reasonable supervision was in place.
- The IAP will provide compensation for actual income loss to a maximum of $250,000, whereas no compensation for actual income is payable under the current administrative dispute resolution process.
- Provision has been made for settlement of claims without a hearing where the parties agree.
- Canada has agreed to commit sufficient resources to permit 2,500 hearings to be scheduled per year.
- Any major changes to the Independent Assessment Process must be approved by the courts. Minor changes may be made by the National Administration

Committee, the committee of plaintiff and defendant representatives established to administer the Settlement Agreement.

Truth and Reconciliation (Article 7.01 and Schedule "N" of the Settlement Agreement)

- Canada will allocate $60 million dollars for the establishment and work of a Truth and Reconciliation Commission.
- The Commission's process will take place over five years and will be an on-going and collective process requiring engagement from all those affected, including the First Nations, Inuit and Metis former students, their families and their communities to acknowledge the Indian Residential School experience, impacts and consequences, including intergenerational harms.
- The Truth and Reconciliation Commission will be established by the appointment of three Commissioners by Canada through an Order in Council, pursuant to special appointment regulations.
- Appointments made to the Commission will be made from a pool of candidates nominated by former students, Aboriginal organizations, Churches and the Government of Canada. The Assembly of First Nations will be consulted in making the final decision as to the appointment of the Commissioners.
- The goals of the Truth and Reconciliation Commission are to:
  (a) acknowledge residential school experiences, impacts and consequences;
  (b) provide a holistic, culturally appropriate and safe setting for former students, their families and their communities to come forward to the Commission;
  (c) witness, support, promote and facilitate truth and reconciliation events at both the national and community levels;
  (d) promote awareness and public education of Canadians about the Indian Residential School system and its impacts;

(e) identify sources and create as complete an historical record as possible of the Indian Residential School system and legacy. The record shall be preserved and made accessible to the public for future study and use;

(f) produce and submit a report including recommendations to the Government of Canada concerning the Indian Residential School system and experience; and

(g) support commemoration of former students and their families.

Commemoration (Article 7.02 and Schedule "J" of the Settlement Agreement)

- Canada will provide $20 million dollars for both national and community based commemorative activities.
- Commemoration is the honouring and paying tribute to former Indian Residential Students and their families by acknowledging their experiences and the systemic impacts of the residential school system.
- Such commemoration may involve the creation of memorials or ceremonies that recognize the residential school experience and provide an opportunity to validate the healing and reconciliation of former students and their families.
- All former students and their families are eligible to submit a proposal for a commemoration project.
- Commemoration programs, events and initiatives will be coordinated under the supervision of the Truth and Reconciliation Commission to ensure the overall goal of reconciliation is promoted.

Healing (Article Eight and Schedule "M" of the Settlement Agreement)

- Canada will provide an endowment of $125 million dollars to the Aboriginal Healing Foundation to fund healing programmes over a five year period.
- Healing programmes will address the healing needs of former students and their families affected by the legacy of physical and sexual abuse in residential schools, including the intergenerational impacts of those abuses.

Legal Fees (Article Thirteen of the Settlement Agreement)

24. There was considerable discussion during the course of these negotiations about the legal fees to be paid to plaintiffs' counsel. This discussion was complicated by four main factors:

(a) the existence of thousands of retainer agreements under which former residential school students had agreed to pay to their lawyers contingency fees ranging from 25 per cent to 45 per cent or more of any judgment or settlement;

(b) the strongly-expressed views of the Assembly of First Nations and Inuit representatives that the full amount of the Common Experience Payment must be paid to former residential school students without any reduction for contingency fees;

(c) the claim by class action counsel on the basis of the existing jurisprudence that they should be paid multipliers of their normal fees on the basis of the risk they had incurred, and other factors, in pursuing these cases;

(d) the requirement in the Political Agreement that the proportion of any settlement allocated for legal fees will be restricted; and

(e) the concern of the Government of Canada that legal fees should be reasonable, fair and subject to verification.

25. In my view, the legal fees to be paid pursuant to Article Thirteen of the Settlement Agreement and the processes to determine those fees, as described below, are fair and reasonable in light of the substantial work undertaken by many of the counsel and their agreement not to charge any fee in respect of the Common Experience Payment.

Compensation for Individual Counsel

26. Sections 13.05 and 13.06 of the Settlement Agreement establish the fundamental principle for the payment of legal fees under the Settlement Agreement, namely, each lawyer

who had a retainer agreement or a substantial solicitor-client relationship (a "Retainer Agreement") with a former student as of May 30, 2005 will be paid for outstanding Work-in-Progress up to a cap of $4,000, so long as he or she does not charge any fees in respect of the Common Experience Payment. The requirement that a Retainer Agreement exist as of May 30, 2005 is intended to avoid providing a windfall to lawyers who "signed up" clients once my appointment and the existence of the settlement discussions was known.

27. Section 13.07 requires that, in order to receive this payment, each lawyer must provide a statutory declaration that attests to the number of Retainer Agreements he or she had with former students as of May 30, 2005 and the amount of outstanding Work-in-Progress in respect of these Retainer Agreements. Article 13.07 also allows the government to engage in such further verification processes with individual lawyers as circumstances require with the consent of the lawyers involved, such consent not to be unreasonably withheld.

28. Sections 13.02 and 13.03 provide for the payment to lawyers of fees at their normal hourly rate for the negotiations leading to the Agreement in Principle and the finalization of the Settlement Agreement, commencing in July 2005 and terminating as of the date of execution of the Settlement Agreement. Additional fees at a reasonable hourly rate are paid for work by counsel on the various administrative bodies, namely, the National Certification Committee, National Administration Committee and Regional Administration Committees, established to coordinate the certification, approval and administration of the Settlement Agreement.

Compensation for the National Consortium and Merchant Law Group

29. In addition to providing for the payment of legal fees to individual lawyers, the Settlement Agreement provides for the payment of the legal fees of the 19 member law firms of the National Consortium and the Merchant Law Group. In recognition of the substantial number of former students represented by each of these groups and the class action work they have done, and subject to the verification processes described below, each of these two groups is to be paid a lump sum of $40 million. Any lawyer who is a partner of, employed by or otherwise affiliated with a National Consortium member law firm or the Merchant Law Group

is not entitled to receive the payments to individual lawyers of Work-in-Progress up to $4,000 and negotiation fees for the July 2005 to November 20, 2005 period.

(a) National Consortium Legal Fees

30. The National Consortium is a consortium of 19 law firms that is the successor to the 24-member National Association of Indian Residential School Plaintiffs' Counsel, formed in 1998. The Consortium includes: Thomson Rogers, lead counsel in the Baxter class action; Cohen Highley and Koskie Minsky, counsel in the Cloud class proceeding, certified as a class action in Ontario; Field LLP, lead counsel in the Alberta Test Case Litigation; David Paterson, counsel in the Blackwater proceedings in British Columbia; and Arnold, Pizzo and McKiggan, counsel for the Shubenacadie School representative action in New Brunswick. I understand that the National Consortium was established to coordinate the efforts of counsel involved in these and other actions.

31. Section 13.08(1) of the Settlement Agreement provides that the National Consortium will be paid $40 million in legal fees and that any lawyer who is a partner of, employed by or otherwise affiliated with a National Consortium member law firm is not entitled to the payments described in paragraph 9 above or the payment of negotiation fees for the July 2005 to November 20, 2005 period.

32. The National Consortium has prepared an affidavit describing the work done collectively by the National Consortium and each of its members, the proposed distributions of the $40 million payment to each of its members, and the rationales for the amounts of these payments. In accordance with the fees verification agreement between Canada and the National Consortium, I have reviewed the affidavit and agree that the payment of $40 million in legal fees, plus GST and PST of $3,213,048.99 and disbursements of $2,402,173.56, is fair and reasonable having regard to the substantial legal work, including significant class action work, undertaken by the National Consortium and its members over many years and the fact that National Consortium members, like others signing the agreement, have undertaken not to seek payment of any legal fees in respect of the Common Experience Payment. A copy of the

fees verification agreement between Canada and the National Consortium is attached as an exhibit to the Merkur affidavit filed in this motion.

(b) Merchant Law Group Legal Fees

33. Section 13.08(2) of the Settlement Agreement establishes a set of fees for the Merchant Law Group, based on the legal fees provisions in the Agreement in Principle and in the Agreement between Canada and the Merchant Law Group respecting verification of legal fees entered into on November 20, 2005 (the "Merchant Fees Verification Agreement"), found at Schedule "V" to the Settlement Agreement.

34. The verification process agreed to with the Merchant Law Group is different from the verification process for the National Consortium because of the very serious concerns that I had and continue to have with respect to the Merchant Law Group fees. These concerns include:

(a) uncertainty about the number of former residential school students that Merchant Law Group purports to represent;

(b) lack of evidence or rationale to support the Merchant Law Group's claim that it had Work-in-Progress of approximately $80 million on its residential school files; and

(c) an apparent discrepancy between the amount of class action work Merchant Law Group represented it had carried out and the amount of class action work it had actually done.

35. The Merchant Law Group agreed to the following four-part verification process set out in the Merchant Fees Verification Agreement.

(a) First, the Merchant Law Group's dockets, computers records of Work in Progress and any other evidence relevant to the Merchant Law Group's claim for legal fees will be made available for review and verification by a firm to be chosen by me.

(b) Second, I will review the material from the verification process and consult with the Merchant Law Group to satisfy myself that the amount of legal fees to be paid to the Merchant Law Group is reasonable and equitable "taking into consideration the amounts and basis on which fees are being paid to other lawyers in respect of this settlement, including the payment of a 3 to 3.5 multiplier in respect of the time on class action files and the fact that the Merchant Law Group has incurred time on a combination of class action files and individual files".

(c) Third, if I am not satisfied that the $40 million is a fair and reasonable amount in light of this test, the Merchant Law Group and I will make reasonable efforts to agree on another amount.

(d) Fourth, if we cannot reach agreement, the amount of the fees shall be determined by Mr. Justice Ball or, if he is not available, another Justice of the Court of Queen's Bench in Saskatchewan.

36. I believe that this verification process provides a fair and reasonable basis for determining the amount of legal fees to which the Merchant Law Group is entitled, assuming the accuracy of the representations made by the Merchant Law Group about the number of retainers its lawyers have with former students and the amount of Work-in-Progress the Merchant Law Group has incurred in respect of these files.

37. Pursuant to the Merchant Fees Verification Agreement, I chose Deloitte & Touche LLP ("Deloitte") to carry out the verification. In accordance with the Merchant Fees Verification Agreement, Merchant Law Group permitted Deloitte to attend at its Regina office to commence the verification process. However, Merchant Law Group subsequently refused to comply with the verification, claiming, among other things, that the verification process could not be completed without violating solicitor-client privilege.

38. Accordingly, the federal government has brought a motion before Mr. Justice Ball of the Court of Queen's Bench of Saskatchewan requesting the Court's assistance to require Merchant Law Group to comply with the verification process in a manner that provides

appropriate protection to solicitor-client privilege. This motion has been heard and a decision is expected shortly.

Settlement Agreement is Fair and Reasonable

39. I believe that the negotiation process that led to the execution of the Settlement Agreement was fair, comprehensive and inclusive. As described at paragraphs 8 to 18 above, all parties were provided every opportunity to be heard and make submissions as to the terms of the Settlement Agreement.

40. I also believe that the Settlement Agreement provides a fair and reasonable resolution of the residential schools issue. My primary focus was to achieve a final and comprehensive resolution package which would extend beyond monetary compensation and properly address the legacy of Indian Residential Schools for both former students and their families.

41. The Settlement Agreement in my view adequately compensates members of all of the classes, including the survivor class and the family and deceased classes. Members of the survivor class will receive monetary compensation that is just and reasonable and relates directly to their attendance at a residential school as well as an improved alternative dispute resolution process. Like members of the survivor class, members of the family class, although they receive no monetary compensation, will receive the benefits of healing, truth and reconciliation and commemoration events to assist them in resolving the legacy of the residential schools system.

42. Former residential schools students who died before May 30, 2005 will receive recognition from the settlement through the significant community-based forms of redress, such as the commemoration and truth and reconciliation initiatives that will be undertaken. These initiatives are a vital component of the settlement package and will ensure that the stories of deceased former students are memorialized for future generations of families and communities.

43. Those former students who died after May 30, 2005 are entitled through their estates to receive the Common Experience Payment on the basis that once I had been appointed to negotiate a resolution, expectations of monetary compensation were created and it would be unfair to deny former students the payment simply because they died before this lengthy process could be concluded.

44. In addition to Canada's commitments to healing and reconciliation, the various church entities that are parties to this settlement will provide cash and in-kind services to a maximum of $102.8 million to develop new programmes or initiatives designed to assist with healing and recognition for the survivor class and the deceased and family classes. In exchange, the churches that are parties to the Settlement Agreement will be released by class members and indemnified by the Government of Canada.

45. The Settlement Agreement is a just, honourable and lasting resolution of historic significance. It deals fairly and comprehensively with issues that have remained unresolved for generations. It reflects a shared vision among all the parties involved in these negotiations as to how the Indian residential schools legacy should be resolved.

46. For former students and their families, the Settlement Agreement provides not just compensation for the residential school experience, but access to a greatly improved independent assessment process and to programs that provide healing, truth and commemoration. It allows the churches to contribute meaningfully to the settlement, avoid the massive costs of defending multiple lawsuits, and focus their resources instead on reconciliation and healing with the Aboriginal community. It responds to the objectives of Aboriginal organizations, who have worked for a holistic settlement that addresses not only compensation but also healing, truth-telling, reconciliation and commemoration. The Canadian public as a whole can also be proud of the Settlement Agreement, which by resolving the legacy of the past provides the basis for a transformative change in the future relationship between Aboriginal peoples and the Government of Canada.

47. I therefore respectfully request this Honourable Court to approve the settlement as proposed in the Settlement Agreement.

SWORN BEFORE ME at the City of Toronto in the Province of Ontario on July 28, 2006.

Commissioner for Taking Affidavits

John A. Terry

FRANK IACOBUCCI

THIS IS EXHIBIT ..... A ..... REFERRED TO IN THE
AFFIDAVIT OF FRANK IACOBUCCI
SWORN BEFORE ME, THIS ..... 28th .....
DAY OF ..... July 2006

.....

A Commission for Taking Affidavits

Political Agreement

Whereas Canada and First Nations are committed to reconciling the residential schools tragedy in a manner that respects the principles of human dignity and promotes transformative change;

Whereas Canada has developed an Alternative Dispute Resolution (ADR) process aimed at achieving that objective;

Whereas the Assembly of First Nations prepared "The Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools" (the AFN Report) identifying the problems with the ADR process and suggesting practical and economical changes that would better achieve reconciliation with former students;

Whereas the Assembly of First Nations participated in several months of discussion with Canada, the churches and the consortium of lawyers with respect to the AFN Report, moving the process towards settlement and providing education and leadership for all the people in the residential schools legacy;

Whereas Canada and the Assembly of First Nations recognize that the current ADR process does not fully achieve reconciliation between Canada and the former students of residential schools;

Whereas Canada and the Assembly of First Nations recognize the need to develop a new approach to achieve reconciliation on the basis of the AFN Report;

Whereas Canada announced today that the first step in implementing this new approach is the appointment of the Honourable Frank Iacobucci as its representative to negotiate with plaintiffs' counsel, and work and consult with the Assembly of First Nations and counsel for the churches, in order to recommend, as soon as feasible, but no later than March 31, 2006, to the Cabinet through the Minister Responsible for Indian Residential Schools Resolution Canada, a settlement package that will address a redress payment for all former students of Indian residential schools, a truth and reconciliation process, community based healing, commemoration, an appropriate ADR process that will address serious abuse, as well as legal fees;

Whereas the Government of Canada is committed to a comprehensive approach that will bring together the interested parties and achieve a fair and just resolution of the Indian Residential Schools legacy, it also recognizes that there is a need for an apology that will provide a broader recognition of the Indian Residential Schools legacy and its effect upon First Nation communities; and

Whereas the Assembly of First Nations wishes to achieve certainty and comfort that the understandings reached in this Accord will be upheld by Canada:

The Parties agree as follows:

1) Canada recognizes the need to continue to involve the Assembly of First Nations in a key and central way for the purpose of achieving a lasting resolution of the IRS legacy, and commits to do so. The Government of Canada and the Assembly of First Nations firmly believe that reconciliation will only be achieved if they continue to work together;

2) That they are committed to achieving a just and fair resolution of the Indian Residential school legacy;

3) That the main element of a broad reconciliation package will be a payment to former students along the lines referred to in the AFN Report;

4) That the proportion of any settlement allocated for legal fees will be restricted;

5) That the Federal Representative will have the flexibility to explore collective and programmatic elements to a broad reconciliation package as recommended by the AFN;

6) That the Federal Representative will ensure that the sick and elderly receive their payment as soon as possible; and

7) That the Federal Representative will work and consult with the AFN to ensure the acceptability of the comprehensive resolution, to develop truth and reconciliation processes, commemoration and healing elements and to look at improvements to the Alternative Dispute Resolution process.

Signed on May 30, 2005 in the City of Ottawa, Ontario.

FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Deputy Prime Minister
The Honourable A. Anne McLellan

ON BEHALF OF THE ASSEMBLY OF FIRST NATIONS

National Chief Phil Fontaine
Assembly of First Nations

THIS IS EXHIBIT ..... B ..... REFERRED TO IN THE AFFIDAVIT OF FRANK IACOBUCCI
SWORN BEFORE ME, THIS ..... 28th .....
DAY OF ..... July 2006

.....

A Commissioner for Taking Affidavits

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June 1, 2005

FAX

Mr. Lorenzo Girones
Girones & Associates
16 Cedar Street South
Timmins, ON P4N 2G4

Dear Mr. Girones,

Re: Residential Schools Litigation

As you may be aware, the Government of Canada today announced my appointment as federal representative, mandated to recommend to Cabinet, no later than March 31, 2006, a broad reconciliation package with regard to residential schools.

The resolution of the pending class and individual actions against the Government will be an important objective of this work. In carrying out my mandate, I will ask to meet with class and individual plaintiffs' counsel, as well as counsel for the Churches. I will also be consulting, and working with the Assembly of First Nations, and other interested aboriginal organizations to ensure that we achieve a fair and just resolution of the Indian Residential Schools legacy.

It will obviously take some time for me to acquaint myself in detail with these matters, and I would ask for your understanding and cooperation in that regard. It is my intention to schedule a series of initial discussions in the near future and I will be in touch with you in that regard as soon as possible.

I look forward to working with you on this extremely important initiative.

Sincerely,

Frank Iacobucci

FI/ws

THIS IS EXHIBIT ..... C ..... REFERRED TO IN THE AFFIDAVIT OF FRANK IACOBUCCI

SWORN BEFORE ME, THIS ..... 28th .....

DAY OF ..... July 2006

.....

A Commission for Taking Affidavits

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July 4, 2005

FAX

x
x
x
x

Dear ■:

Re: Residential Schools Litigation

Further to my letter dated June 1, 2005, I am writing to advise you that on July 20, 2005 I will hold my first meeting with counsel respecting the resolution of the class and individual actions against the Government respecting residential schools. The meeting will be held at the Bessborough Hotel in Saskatoon and will begin at 9:30 a.m.

The purpose of this initial meeting is to engage in a preliminary exchange of views among the parties and to discuss issues of process and scheduling. We will circulate a draft agenda prior to the meeting and will propose additional dates for meetings in advance of July 20, so participants can block them off in their calendars.

The confirmed attendees are:

Plaintiff Counsel

(i) Ahlstrom Wright Oliver & Cooper (Steven Cooper)

(ii) Cohen Highley LLP (Russell Raikes)

(iii) David Paterson Law Corp. (David Paterson)

(iv) Field LLP (Dan Carroll and Jon Faulds)

(v) Fulton & Company (Leonard Marchand) - tentative

(vi) Koskie Minsky (Kirk Baert)

(vii) Merchant Law Group (Tony Merchant) - tentative

(viii) Poyner Baxter (Patrick Poyner) - tentative

(ix) Thomson, Rogers (Alan Farrer, Craig Brown or Darcy Merkur)

Church Counsel

(x) Cassels, Brock & Blackwell LLP (John Page)

(xi) Cassels, Brock & Blackwell LLP (Alex Pettingill)

(xii) Donlevy & Company (Rod Donlevy)

(xiii) McCarthy Tetrault LLP (Brian Daly)

(xiv) McKercher McKercher & Whitmore (Dan Konkin)

To make these meetings as efficient and fruitful as possible, we hope that the many other counsel who represent smaller numbers of plaintiffs will make arrangements with the confirmed attendees so that their views can be expressed by the attendees at this meeting. In the event that you wish to attend, please contact my colleague Amanda Kemshaw at 416-865-7541 or akemshaw@torys.com.

In addition to these meetings with counsel, I will be consulting and working with the Assembly of First Nations and other interested aboriginal organizations to ensure that we achieve a fair and just resolution of the residential schools legacy. The Assembly of First Nations in particular will have a key and central role with respect to the "non-legal" issues, such as apology, healing and truth and reconciliation.

I look forward to the initiation of these meetings.

Sincerely,

Frank Iacobucci

FI/ws

LIST OF PLAINTIFFS' COUNSEL

BRITISH COLUMBIA		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**BILKEY QUINN** 186 Victoria Street Suite 301 Kamloops, BC V2C 5R3 Attention: **Mr. David Bilkey** Tel: (250) 374-6661 ext. 213 Fax: (250) 828-2836 Email: dbilkey@bilkeyquinn.com Attention: **Mr. Kevin Simcoe** Tel: (250) 374-6661 ext. 216 Fax: (250) 828-2836 Email: ksimcoe@bilkeyquinn.com	➢ 10 – 50
2.	**CABOTT & CABOTT** 1040 Hamilton Street Vancouver, BC V6B 2R9 Attention: **Mr. Walter Bryce Cabott** Tel: (604) 683-2025 Fax: (604) 683-2035 Email: bcabott@telus.net	➢ Less than 10
3.	**DAVID PATERSON LAW CORPORATION** 10252 – 135th Street Suite 302 Surrey, BC V3T 4C2 Attention: **Mr. David Paterson** Tel: (604) 951-0435 Fax: (604) 585-1740 Email: davidp@shaw.ca	➢ Less than 10
4.	**DICKSON MURRAY** 1152 Mainland Street Vancouver, BC V6B 4X2 Attention: **Mr. Gail M. Dickson Q.C.** Tel: (604) 688-0777 Fax: (604) 688-9700 Email: gmdickson@dicksonmurray.com	➢ Less than 10
5.	**DINNING HUNTER LAMBERT & JACKSON** 813 Goldstream Avenue Victoria, BC V9B 2X8 Attention: **Mr. Eric John Wagner** Tel: (250) 478-1731 Fax: (250) 478-9500 Email: ewagner@dinninghunter.com	➢ 10 – 50

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6.	**DONOVAN & COMPANY** 73 Water Street Suite 600 Victoria, BC V6B 1A1 Attention: **Mr. Karim Ramji** Tel: (604) 688-4272 Fax: (604) 688-4282 Email: karim_ramji@aboriginal-law.com	➢ 10 – 50
7.	**DUMONT & REIF** P.O. Box 549 3395 Okanagan Street Armstrong, BC V0E 1B0 Attention: **Mr. Gregory Reif** Tel: (250) 546-8414 Fax: (250) 546-8885 Email: reifadmn@telus.net	➢ Less than 10
8.	**F. J. SCOTT HALL LAW CORPORATION** 848 Courtney Street Suite 300 Victoria, BC V8W 2C4 Attention: **Mr. Scott Hall** Tel: (250) 384-6600 Fax: (250) 388-9406 Email: scotthall@pacificcoast.net	➢ More than 50
9.	**FULTON & COMPANY** 248 – Second Avenue Kamloops, BC V2C 2C9 Attention: **Mr. Leonard S. Marchand** Tel: (250) 372-5542 Fax: (250) 851-2300 Email: lmarchand@fultonco.com	➢ 10 – 50
10.	**HEATHER SADLER JENKINS** 700 – 550 Victoria Street Prince George, BC V2L 2K1 Attention: **Ms Sandra Staats** Tel: (250) 565-8000 Fax: (250) 565-8001 Email: sstaats@hsjlawyers.com	➢ Less than 10

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	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
11.	**HUNTER VOITH** 900 Hastings Street West Suite 1200 Vancouver, BC V6C 1E5 Attention: **Mr. Mark Stephen Oulton** Tel: (604) 891-2408 Fax: (604) 688-5947 Email: moulton@litigationcounsel.ca	➢ Less than 10
12.	**HUTCHINS, GRANT & ASSOCIATES** 900 – 777 Hornby Street Vancouver, BC V6Z 1S4 Attention: **Mr. Peter R. Grant** Tel: (604) 685-1229 Fax: (604) 685-0244 Email: pgrant@hsgnativelaw.com Attention: **Mr. Allan Early** Tel: (604) 685-1229 Fax: (604) 685-0244 Email: hsg@netidea.com	➢ 10 – 50
13.	**IAN LAWSON** P.O. Box 732 7326 Cedar Road Smithers, BC V0J 2N0 Attention: **Mr. Ian Lawson** Tel: (250) 847-4720 Fax: (250) 847-8920	➢ Less than 10
14.	**JOHNS, SOUTHWARD, GLAZIER, WALTER & MARGETTS** P.O. Box 847 202 – 911 Yates Street Victoria, BC V8W 2R9 Attention: **Mr. William Southward** Tel: (250) 381-7321 Fax: (250) 381-1181 Email: wsouthward@jsg.bc.ca Attention: **Mr. Richard Margetts, Q.C.** Tel: (250) 381-7321 Fax: (250) 381-1181 Email: rmargetts@jsg.bc.ca	➢ Agent for Alberta Firm
15.	**KANE SHANNON WEILER** 7565 – 132nd Street Suite 220 Surrey, BC V3W 1K5 Attention: **Mr. Stephen Leong** Tel: (604) 591-7321 Fax: (604) 591-7149	➢ 10 – 50

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16.	**KELLIHER & TURNER** 230 Shoal Point 21 Dallas Road Victoria, BC V8V 4Z9 Attention: **Ms Diane Turner** Tel: (250) 386-5566 Fax: (250) 386-6804 Email: dturner@pacificcoast.net	➢ Less than 10
17.	**MACISAAC & COMPANY** Top Floor 190 Ingram Street Duncan, BC V9L 1P1 Attention: **Mr. Lorne D. Sinclair** Tel: (250) 746-4422 Fax: (250) 746-1811 Email: lsinclair@macisaacgroup.com	➢ Less than 10
18.	**MACKENZIE FUJISAWA LLP** 1095 Pender Street West Suite 1600 Vancouver, BC V6E 2M6 Attention: **Mr. Brian C. Poston** Tel: (604) 689-3281 Fax: (604) 685-6494 Email: bposton@maclaw.bc.ca	➢ Less than 10
19.	**MAIR JENSEN BLAIR** 275 Lansdowne Street Suite 700 Kamloops, BC V2C 6H6 Attention: **Mr. Darren Paulsen** Tel: (250) 374-3161 Fax: (250) 374-6992 Email: dap@mjblaw.com	➢ Less than 10
20.	**MCCARTHY TÉTRAULT LLP** P.O. Box 10424, Pacific Centre 777 Dunsmuir Street Suite 1300 Vancouver, BC V7Y 1K2 Attention: **Mr. Leonard Doust** Tel: (604) 643-7903 Fax: (604) 643-7900 Email: ldoust@mccarthy.ca	➢ 10 – 50

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21.	**MILLER THOMSON** Robson Court 840 Howe Street Suite 1000 Vancouver, BC V6Z 2M1 Attention: **Mr. Donald J. Sorochan, Q.C.** Tel: (604) 643-1214 Fax: (604) 643-1200 Email: dsorochan@millerthomson.com Attention: **Mr. Dwight M. Stewart** Tel: (604) 643-1248 Fax: (604) 643-1200 Email: dstewart@millerthomson.com Attention: **Mr. John R. Shewfelt** Tel: (604) 643-1281 Fax: (604) 643-1200 Email: jshewfelt@millerthomson.com Attention: **Mr. Karey M. Brooks** Tel: (604) 643-1293 Fax: (604) 643-1200 Email: kbrooks@millerthomson.com	➢ Less than 10
22.	**MUIR SINCLARE BUSH & COMPANY** 575 10th Street Suite 200 Courtenay, BC V9N 1P9 Attention: **Mr. R. J. R. Bush** Tel: (250) 338-6744 Fax: (250) 334-3325 Email: info@msblegal.com	➢ Less than 10
23.	**POYNER BAXTER** 145 Chadwick Court Suite 408 North Vancouver, BC V7M 3K1 Attention: **Mr. Patrick J. Poyner** Tel: (604) 988-6321 Fax: (604) 988-3632 Email: ppoyner@poynerbaxter.com	➢ More than 50
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25.	**RONALD PERRICK LAW CORPORATION** 145 17th Street West Suite 480 North Vancouver, BC V7M 3G4 Attention: **Mr. Ronald W. Perrick** Tel: (604) 984-9521 Fax: (604) 984-9104 Attention: **Mr. Kit S. Perrick** Tel: (604) 984-9521 Fax: (604) 984-9104	➢ More than 50 ➢ Files in BC and MB
26.	**ROSE A. KEITH** 1030 George Street West Suite 1500 Vancouver, BC V6E 2Y3 Attention: **Ms Rose A. Keith** Tel: (604) 669-2126 Fax: (604) 669-5668 Email: rkeith@rosekeith.bc.ca	➢ Less than 10

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2.	**AHLSTROM WRIGHT OLIVER & COOPER** 80 Chippewa Road Suite 200 Sherwood Park, AB T8A 4W6 Attention: **Mr. Steve Cooper** Tel: (780) 464-7477 Fax: (780) 467-6428 Attention: **Ms Donna Oliver** Tel: (780) 464-7477 Fax: (780) 467-6428 Email: d.oliver@awoc.ca	➢ More than 50 (240) ➢ Files in BC, NT and NV

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4.	**DOCKEN & COMPANY** 800 – 6th Avenue S. W. Suite 900 Calgary, AB T2P 3G3 Attention: **Mr. Clint Docken, Q.C.** Tel: (403) 269-3612 Fax: (403) 269-8246 Email: info@docken.com	➢ More than 50 (104)
5.	**FIELD LLP** 10235 – 101 Street Suite 2000 Edmonton, AB T5J 3G1 Attention: **Mr. Dan P. Carroll** Tel: (780) 423-3003 Fax: (780) 428-9329/424-5657 Email: dcarroll@fieldlaw.com Attention : **Mr. P. J. Faulds** Tel: (780) 423-3003 Fax: (780) 428-9329/424-5657 Email: jfaulds@fieldlaw.com Attention: **Mr. Dale A. Cunningham** Tel: (780) 423-3003 Fax: (780) 428-9329/424-5657 Email: dcunningham@fieldlaw.com	➢ More than 50 (634) ➢ Files in AB, SK and NT
6.	**FIRST STREET LAW OFFICE** 1060 Jasper Avenue Suite 2102 Edmonton, AB T5J 3R8 Attention: **Ms. Diana Goldie** Tel: 780.426.3327 Fax: 780.426.2214 Email: fslo@accessweb.com	➢ More than 50 (187)

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8.	**LES MEIKLEJOHN** 9811 – 34th Avenue Suite 303 Edmonton, AB T6E 5X9 Attention: **Mr. Les Meiklejohn** Tel: (780) 436-6400 Fax: (780) 430-7491 Email: meiklaw@telusplanet.net	➢ More than 50 (266)
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10.	**MERCHANT LAW GROUP** 310 Kingsway Garden Mall Edmonton, AB T5G 3A6 Attention: **Mr. Graham Neill** Tel: (780) 474-8047 Fax: (780) 474-4064 Email: gneill@oanet.com	➢ More than 50 (82)
11.	**MERCHANT LAW GROUP** 400 – 2710 17th Avenue S. E. Calgary, AB T2A 0P6 Attention: **Mr. Peter Manousos** Tel: (403) 237-7777 Fax: (403) 273-9411 Email: pmanousos@merchantlaw.com	➢ Less than 10 ➢ Files in BC and SK

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12.	**MERCHANT LAW GROUP** 521 – 3rd Avenue S.W. Suite 340 Calgary, AB T2P 3T3 Attention: **Mr. Mathew V.R. Merchant** Tel: (403) 237-9777 Fax: (403) 237-9775 Email: mmerchant@merchantlaw.com Attention: **Ms Jane Ann Summers** Tel: (403) 237-9777 Fax: (403) 237-9775 Email: jsummers@merchantlaw.com	➢ More than 50 ➢ Files in AB, SK and ON
13.	**NICKERSON ROBERTS HOLINSKI & MERCER** 10088 – 102 Avenue Suite 1901 Edmonton, AB T5J 2Z1 Attention: **Ms Elaine Hancheruk** Tel: (780) 428-0041 Fax: (780) 425-0272 Email: nickrob@oanet.com	➢ Less than 10
14.	**RATH & COMPANY** Box 44, Site 8, RR 1 Priddis, AB T0L 1W0 Attention: **Mr. Drew F. Saly** Tel: (403) 931-4047 Fax: (403) 931-4048 Email: dsaly@rathandcompany.com Attention: **Ms Vivienne Beisel** Tel: (403) 931-4047 Fax: (403) 931-4048 Email: vbeisel@rathandcompany.com Attention: **Mr. Jeffrey Rath** Tel: (403) 931-4047 Fax: (403) 931-4048	➢ 10 – 50
15.	**RHONDA RUSTON, Q.C.** 501 – 4th Street South Box 1503, Coneybeare Court Lethbridge, AB T1J 4K2 Attention: **Ms Rhonda Ruston, Q.C.** Tel: (403) 328-4483 Fax: (403) 206-7435	➢ More than 50 (186)

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2.	**BELL KREKLEWICH & COMPANY** Barristers & Solicitors P.O. Box 2000 147 – 3rd Avenue East Melville, SK S0A 2P0 Attention: **David G. Kreklewich** Tel: (306) 728-5468 Fax: (306) 728-4444	➢ Less than 10

SASKATCHEWAN		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
3.	**BODNER & CAMPBELL** Barristers & Solicitors 100, 220 – 3rd Avenue South Saskatoon, SK S7K 1M1 Attention: **Mr. M. P. Bodnar** Tel: (306) 664-3314 Fax: (306) 664-3354 Email: mbodnar@bwclaw.ca	➢ Less than 10
4.	**BRIDGELAND LAW PRACTICE** Barristers & Solicitors 111, 2103 Airport Drive Saskatoon, SK S7L 6W2 Attention: **Ms Cheryllynn M. Klassen** Tel: (306) 477-7766 ext. 223 Fax: (306) 477-9494 Email: cheryllynn@bridgelandlaw.com	➢ 10 – 50
5.	**CARSON & CO.** Barristers & Solicitors P.O. Box 1600 803 Main Street Melfort, SK S0E 1A0 Attention: **Mr. Craig D. Neely** Tel: (306) 752-5781 Fax: (306) 752-4797 Email: cneely.carsonco@sasktel.net	➢ 10 – 50
6.	**CHERKEWICH LEGAL SERVICES** Barristers & Solicitors 3, 27 – 11th Street West Prince Albert, SK S6V 3A8 Attention: **Mr. Ronald Cherkewich** Tel: (306) 764-1537 Fax: (306) 763-0505 Email: ron.cya@sasktel.net	➢ 10 – 50
7.	**CUELENAERE, KENDALL, KATZMAN & WATSON** Barristers and Solicitors 5th Floor, Standard Life Building 500, 128 – 4th Avenue South Saskatoon, SK S7K 1M8 Attention: **Mr. Michael Nolin** Tel: (306) 653-5000 ext. 232 Fax: (306) 652-4171 Attention: **Mr. Jay Watson** Tel: (306) 653-5000 ext. 228 Fax: (306) 652-4171 Email: jwatson@cuelenaere.co	➢ 10 – 50

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	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
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9.	**DUFOUR SCOTT PHELPS & MASON** Barristers & Solicitors 400, 135 – 21st Street East Saskatoon, SK S7K 0B4 Attention: **Mr. Kevin W. Scott** Tel: (306) 244-0002 Fax: (306) 244-2420	➢ 10 – 50
10.	**GATES & COMPANY** Barristers and Solicitors Avonhurst Plaza 3132 Avonhurst Drive Regina, SK S4R 3J7 Attention: **Mr. Sheldon Stener** Tel: (306) 949-5544 Fax: (306) 775-2995	➢ 10 – 50
11.	**GERRAND RATH JOHNSON** Barristers and Solicitors Toronto Dominion Bank Building 700 – 1914 Hamilton Street Regina, SK S4P 3N6 Attention: **Mr. Michael T. Megaw** Tel: (306) 522-3030 Fax: (306) 522-3555 Email: mmegaw@grj.ca	➢ Less than 10
12.	**GRIFFIN TOEWS MADDIGAN** Barristers and Solicitors 1530 Angus Street Regina, SK S4T 1Z1 Attention: **Mr. James A. Griffin** Tel: (306) 525-6125 Fax: (306) 525-5226 Email: griffin.toews@sasktel.net Attention: **Leslie S. Griffin** Tel: (306) 525-6125 Fax: (306) 525-5226 Email: griffin.toews@sasktel.net	➢ Less than 10

SASKATCHEWAN		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
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14.	**HUCK BIRCHARD LAW OFFICE** Barristers & Solicitors #328 - 2505 - 11th Avenue Regina, SK S4P 0K6 Attention: **Fran Huck** Tel: (306) 949-0950 Fax: (306) 949 - 0952 Attention: **Mr. David R. Birchard** Tel: (306) 949-0950 Fax: (306) 949 - 0952	➢ More than 50 ➢ Files in AB and SK
15.	**HUNTER MILLER** Barristers and Solicitors 600 – 2500 Victoria Avenue Regina, SK S4P 3X2 Attention: **Mr. R. Bradley Hunter** Tel: (306) 525-6103 Fax: (306) 565-8806 Email: brad.hunter@huntermiller.com Attention: **Mr. Ronald J. Miller** Tel: (306) 525-6103 Fax: (306) 565-8806 Email: ron.miller@huntermiller.co	➢ Less than 10
16.	**JONES & HUDEC** P.O. Box 1179, Stn. Main 10211 – 12th Avenue North Battleford, SK S9A 3K2 Attention: **Ms Patricia J. Miklejohn** Tel: (306) 446-2211 Fax: (306) 446-3022 Email: jhlaw@sasktel.net	➢ Less than 10
17.	**KAPOOR SELNES KLIMM & BROWN** Barristers and Solicitors 417 Main Street Melford, SK S0E 1A0 Attention: **Mr. William A. Selnes** Tel: (306) 752-5777 Fax: (306) 752-2712	➢ Less than 10

SASKATCHEWAN		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
19.	**KMP LAW** Barristers and Solicitors 2600 Victoria Avenue Regina, SK S4T 1K2 Attention: **Mr. Michael S. Scott** Tel: (306) 761-6236 Fax: (306) 761-6222 Email: mscott@kmplaw.com Attention: **Mr. Kenneth J. Karwandy** Tel: (306) 761-6226 Fax: (306) 761-6222 Email: kkarwandy@kmplaw.com	➢ Less than 10
20.	**LEWANS & FORD** Barristers and Solicitors Box 759, 228 Centre Street Assiniboia, SK S0H 0B0 Attention: **Ms Kimberley M. Ford** Tel: (306) 642-3543 Fax: (306) 642-5777	➢ Less than 10
21.	**MACDERMID LAMARSH** Barristers and Solicitors 320 – 728 Spadina Crescent East Saskatoon, SK S7K 3H2 Attention: **Mr. Dennis P. Loewen** Tel: (306) 652-9422 ext. 244 Fax: (306) 242-1554 Email: dennis@macmarsh.com Attention: **Mr. Robert B. Emigh Q.C.** Tel: (306) 652-9422 ext. 222 Fax: (306) 242-1554 Email: emigh@macmarsh.com Attention: **Mr. M. Kerry O'Shea** Tel: (306) 652-9422 ext. 208 Fax: (306) 242-1554 Email: koshea@macmarsh.com Attention: **Leslie G. Tallis** Tel: (306) 652-9422 ext. 213 Fax: (306) 242-1554 Email: tallis@macmarsh.com Attention: **Ms Penny-Lynn Tallis** Tel: (306) 652-9422 ext. 207 Fax: (306) 242-1554 Email: ptallis@macmarsh.com	➢ More than 50

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	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
22.	**MACPHERSON LESLIE & TYERMAN LLP** Barristers & Solicitors 1500 – 410 22nd Street East Saskatoon, SK S7K 5T6 Attention: **Mr. Bruce W. Wirth** Tel: (306) 975-7109 Fax: (306) 975-7145 Email: bwirth@mlt.com	➢ More than 50
23.	**MACPHERSON LESLIE & TYERMAN LLP** Barristers & Solicitors 1500 – 1874 Scarth Street Regina, SK S4P 4E9 Attention: **Mr. James D. Camplin** Tel: (306) 347-8497 Fax: (306) 352-5250 Email: jcamplin@mlt.com Attention: **Mr. Jordan P. Hardy** Tel: (306) 347-8436 Fax: (306) 352-5250 Email: jhardy@mlt.com Attention: **Ms Bonnie B. Reid** Tel: (306) 347-8603 Fax: (306) 352-5250 Email: breid@mlt.com	➢ More than 50
24.	**MCKAY & ASSOCIATES** 800 – 2002 Victoria Avenue Regina, SK S4P 0R7 Attention: **Mr. David R. Barth** Tel: (306) 359-5445 Fax: (306) 359-5446 Attention: **Mr. Ian McKay, Q.C.** Tel: (306) 359-5440 Fax: (306) 359-5446 Email: ianmackayqc@hotmail.com	➢ Less than 10
25.	**MARTIN, MACLEOD, WERRY** Barristers and Solicitors 2114 Robinson Street Regina, SK S4T 2P7 Attention: **Mr. N. Chris MacLeod** Tel: (306) 347-0868 Fax: (306) 352-6177 Email: mmw@sasktel.net	➢ Less than 10

SASKATCHEWAN		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
26.	**MERCHANT LAW GROUP** Barristers & Solicitors 100 – 2401 Saskatchewan Drive Regina, SK S4P 4H8 Attention: **Mr. E. F. Anthony Merchant, Q.C.** Tel: (306) 359-7777 Fax: (306) 522-3299 Attention: **Mr. Patrick G. Alberts** Tel: (306) 359-7777 Fax: (306) 522-3299 Attention: **Mr. Henri P. V. Chabanole** Tel: (306) 359-7777 Fax: (306) 522-3299 Email: henri.chabanole@sk.sympatico.ca Attention: **Mr. Gerald B. Heinrichs** Tel: (306) 359-7777 Fax: (306) 522-3299 Email: gbh@sk.sympatico.ca Attention: **Mr. Michael R. Troy** Tel: (306) 359-7777 Fax: (306) 522-3299	➢ More than 50 ➢ Files in BC, AB, SK, and MB
27.	**MERCHANT LAW GROUP** Barristers & Solicitors 501 – 224 – 4th Avenue South Saskatoon, SK S7K 5M5 Attention: **Mr. Michael R. Mantyka** Tel: (306) 651-7777 Fax: (306) 975-1983 Email: mmantyka@merchantlaw.com Attention: **Evatt F. A. Merchant** Tel: (306) 651-7777 Fax: (306) 975-1983 Email: emerchant@merchantlaw.com Attention: **Mr. Suneil A. Sarai** Tel: (306) 651-7777 Fax: (306) 975-1983 Email: sunsarai@hotmail.com Attention: **Mr. William G. Slater** Tel: (306) 651-7777 Fax: (306) 975-1983 Email: wslater@merchantlaw.com Attention: **Mr. Timothy E. Turple** Tel: (306) 651-7777 Fax: (306) 975-1983 Email: tturple@merchantlaw.com	➢ More than 50 ➢ Files in BC, AB, SK and MB

SASKATCHEWAN		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
28.	**MERCHANT LAW GROUP** Barristers & Solicitors 4 – 3rd Avenue North Yorkton, SK S3N 1B9 Attention: **Richard S. Yaholnitsky** Tel: (306) 783-9777 Fax: (306) 782-5558 Email: yorktonlaw@hotmail.com	➢ Less than 10
29.	**MILLS WILCOX & ZUK** Barristers and Solicitors 20 – 12th Street West Prince Albert, SK S6V 3B3 Attention: **Mr. Lyle W. Zuk** Tel: (306) 922-4700 Fax: (306) 922-0633 Email: zuk@mwzlaw.com	➢ 10 – 50
30.	**MORGAN KHALADKAR & SKINNER** Barristers and Solicitors 2510 13th Avenue Regina, SK S4P 0W2 Attention: **Mr. Vikas Khaladkar** Tel: (306) 525-9191 Fax: (306) 525-0006 Email: morgan.skinner@sasktel.net	➢ Less than 10
31.	**OLIVE WALLER ZINKHAN & WALLER** Barristers and Solicitors 1000 – 2002 Victoria Avenue Regina, SK S4P 0R7 Attention: **Mr. Gregory R. Irvine** Tel: (306) 359-1888 Fax: (306) 352-0771/352-3352 Email: girvine@owzw.com Attention: **Mr. Douglas J. Kovatch, Q.C.** Tel: (306) 359-1888 Fax: (306) 352-0771/352-3352 Email: dkovatch@owzw.com Attention: **Mr. Michael E. Tomka** Tel: (306) 359-1888 Fax: (306) 352-0771/352-3352 Email: mtomka@owzw.com Attention: **Mr. Fred C. Zinkhan** Tel: (306) 359-1888 Fax: (306) 352-0771/352-3352 Email: fzinkhan@owzw.com	➢ 10 – 50

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	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
32.	**PANDILA & CO.** Barristers and Solicitors 15 – 15th Street West Prince Albert, SK S6V 3P4 Attention: **Mr. Clark R. McKay** Tel: (306) 764-2720 Fax: (306) 763-8096 Email: clark.mckay@sasktel.net	➢ Less than 10
33.	**PICHE & COMPANY** Barristers and Solicitors 211 – 3502 Taylor Street East Saskatoon, SK S7H 5H9 Attention: **Ronald P. Piche** Tel: (306) 955-7667 Fax: (306) 955-7727 Email: pichelaw@sasktel.net	➢ More than 50
34.	**RASK & COMPANY** Barristers and Solicitors 1633A Quebec Avenue Saskatoon, SK S7K 1V6 Attention: **Ms Tara D. Chornoby** Tel: (306) 242-2500 Fax: (306) 242-2538 Email: tara@rasklaw.com	➢ Less than 10
35.	**ROBERTSON STROMBERG PEDERSEN LLP** Barristers and Solicitors Bank of Canada Building 500 – 2220 – 12th Avenue P.O. Box 1037, Stn. Main Regina, SK S4P 3B2 Attention: **Mr. Ralph K. Ottenbreit, Q.C.** Tel: (306) 569-5401 Fax: (306) 757-6443 Email: r.ottenbreit@thinkrsplaw.com	➢ Less than 10
36.	**ROBERTSON STROMBERG PEDERSEN LLP** Barristers and Solicitors Canada Building 600 – 105 – 21st Street East Saskatoon, SK S7K 0B3 Attention: **M. Kim Anderson** Tel: (306) 933-1344 Fax: (306) 652-2445 Email: mk.anderson@thinkrsplaw.com	➢ Less than 10

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	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
37.	**ROSOWSKY & CAMPBELL** Barristers and Solicitors P.O. Box 399 445 – 2nd Street Kamsack, SK S0A 1S0 Attention: **Orest Rosowsky, Q.C.** Tel: (306) 542-2646 Fax: (306) 542-2510 Email: ros.cam@sasktel.net	➢ Less than 10
38.	**RUSNAK, BALACKO, KACHUR AND RUSNAK** Barristers and Solicitors 7 Broadway Street East Yorkton, SK S3N 2X3 Attention: **Mr. Ronald J. Balacko** Tel: (306) 783-8523 ext. 2 Fax: (306) 783-8668 Email: rbkr@sasktel.net	➢ Less than 10
39.	**SANDERSON, BALICKI, POPESCUL** Barristers and Solicitors 110 – 11th Street East Prince Albert, SK S6V 1A1 Attention: **Mr. Ronald G. Parchomchuk** Tel: (306) 764-2222 Fax: (306) 764-2221 Email: parchomchuk.sbp@sasktel.net	➢ 10 – 50
40.	**SEMAGANIS, WORME & MISSENS** Barristers and Solicitors 300, 203 Packham Avenue Saskatoon, SK S7N 4K5 Attention: **Mr. Greg Curtis** Tel: (306) 664-7175 Fax: (306) 664-7176 Email: legaledge@sasktel.net Attention: **Ms Helen G. Semaganis** Tel: (306) 664-7175 Fax: (306) 664-7176 Email: semaganislaw@sasktel.net Attention: **Mr. Donald E. Worme, Q.C.** Tel: (306) 664-7175 Fax: (306) 664-7176 Email: legalwarrior@sasktel.net	➢ More than 50

SASKATCHEWAN		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
41.	**SLUSAR LAW OFFICE** Barrister and Solicitor 200, 316 – 6th Avenue North Saskatoon, SK S7K 2S5 Attention: **Mr. Bruce J. Slusar** Tel: (306) 931-3737 Fax: (306) 931-6741 Email: slusar@shaw.ca	➢ More than 50
42.	**STOOSHINOFF LAW OFFICE** Barristers and Solicitors 300, 416 – 21st Street East Saskatoon, SK S4K 0C2 Attention: **Mr. Nicholas J. Stooshinoff** Tel: (306) 653-9000 Fax: (306) 653-5284 Email: stooshinoff.law@sk.sympatico.ca	➢ Less than 10
43.	**WARDELL DRIEDGER COTTON & RODGERS** Barristers, Solicitors & Notaries 1249 – 8th Street East Saskatoon, SK S7H 0S5 Attention: **Ms Buffy L. Rodgers** Tel: (306) 956-3338 ext. 29 Fax: (306) 956-2228 Email: blrodgers@sasktel.net Attention: **Ms Donna L. Driedger** Tel: (306) 956-3338 ext. 23 Fax: (306) 956-2228 Email: dldriedger@sasktel.net Attention: **Ms Helen A. Cotton** Tel: (306) 956-3338 ext. 22 Fax: (306) 956-2228 Email: hacotton@sasktel.net Attention: **Mr. William J. Wardell Q.C.** Tel: (306) 956-3338 ext. 27 Fax: (306) 956-2228 Email: wjwardell@sasktel.net	➢ More than 50
44.	**WEST – SIWAK** Barristers and Solicitors 1109 Central Avenue Prince Albert, SK S6V 4V7 Attention: **Mr. Philip E. West, Q.C.** Tel: (306) 763-7467 Fax: (306) 763-7469	➢ Less than 10

SASKATCHEWAN		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
45.	**WILLOWS TULLOCH AND HOWE** Barristers & Solicitors 300 – 533 Victoria Avenue Regina, SK S4N 0P8 Attention: **Mr. Stephen J. Bronstein** Tel: (306) 924-8620 Fax: (306) 924-8601 Email: sbronstein@accesscomm.ca	➢ More than 50
46.	**WOLOSHYN & COMPANY** Barristers & Solicitors 200 Scotia Bank Building 111 – 2nd Avenue South Saskatoon, SK S7K 1K6 Attention: **Mr. James D. Jodouin** Tel: (306) 244-2242 Fax: (306) 652-0332 Email: jjodouin@sasklaw.com Attention: **Mr. Timothy J. Rickard** Tel: (306) 244-2242 Fax: (306) 652-0332 Email: trickard@sasklaw.com Attention: **Mr. Gary L. Bainbridge** Tel: (306) 244-2242 Fax: (306) 652-0332 Email: gbainbridge@sasklaw.com	➢ More than 50
47.	**YOUNG LAW OFFICE** Barrister & Solicitor 1138 Dewdney Avenue East Regina, SK S4N 0E2 Attention: **Mr. Lennard Young** Tel: (306) 522-0661 Fax: (306) 522-0663	➢ Less than 10

MANITOBA		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**BOOTH, DENNEHY** Barristers & Solicitors 387 Broadway Winnipeg, MB R3C 0V5 Attention: **Mr. Andrew P. Kelly** Tel: (204) 957-1717 Fax: (204) 943-6199 Email: akelly@dek-law.com	➢ Less than 10

MANITOBA		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
2.	**DEELEY FABBRI SELLEN** 386 Broadway Suite 903 Winnipeg, MB R3C 3R6 Attention: **Mr. Robert R. Fabbri** Tel: (204) 949-1710 Fax: (204) 956-4457 Email: rfabbri@dfslaw.ca	➢ Less than 10
3.	**DOWNTOWN LEGAL ACTION** 586 Broadway Winnipeg, MB R3C 0W5 Attention: **Mr. R. Ian Histed** Tel: (204) 779-5741 Fax: (204) 772-4827	➢ Less than 10
4.	**DUBOFF EDWARDS HAIGHT & SCHACHTER** Barristers & Solicitors 155 Carlton Street Suite 1900 Winnipeg, MB R3C 3H8 Attention: **Mr. Harley I. Schachter** Tel: (204) 942-3361 Fax: (204) 942-3362 Attention: **Ms Kimberley Gilson** Tel: (204) 942-3361 Fax: (204) 942-3362 Email: kgilson@dehslaw.com Attention: **Mr. Israel A. Ludwig** Tel: (204) 942-3361 Fax: (204) 942-3362 Email: kgilson@dehslaw.com	➢ More than 50 (523)
5.	**EDMOND & ASSOCIATES** Barristers & Solicitors 1120 Grant Avenue Suite 204 Winnipeg, MB R3M 2A6 Attention: **Mr. Chad H. Schaan** Tel: (204) 452-5314 Fax: (204) 452-5989	➢ Less than 10

MANITOBA		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
6.	**LEVENE TADMAN GUTKIN GOLUB** Barristers and Attorneys-at-Law 330 St. Mary Avenue Suite 700 Winnipeg, MB R3C 3Z5 Attention: **Mr. Kevin MacDonald** Tel: (204) 957-6403 Fax: (204) 957-1696 Email: kmacdonald@llt.mb.ca Attention: **Mr. Martin G. Tadman** Tel: (204) 957-6407 Fax: (204) 957-1696 Email: mtadman@llt.mb.ca	➢ Less than 10
7.	**MERCHANT LAW GROUP** 363 Broadway Suite 812 Winnipeg, MB R3C 3N9 Attention: **Mr. Norman Rosenbaum** Tel: (204) 982-0800 Fax: (204) 982-0771	➢ 10 – 50
8.	**MYERS WEINBERG** 240 Graham Avenue Suite 724 Winnipeg, MB R3C 0J7 Attention: **Mr. John Harvie** Tel: (204) 926-1505 Fax: (204) 956-0625	➢ Less than 10
9.	**P. MICHAEL JERCH LAW OFFICE** 586 Broadway Winnipeg, MB R3C 0W5 Attention: **Mr. Michael Jerch** Tel: (204) 774-8301 Fax: (204) 774-8349	➢ Less than 10
10.	**PHILLIPS, AIELLO** 668 Corydon Avenue Winnipeg, MB R3M 0X7 Attention: **Mr. Joseph G. Aiello** Tel: (204) 949-7078 Fax: (204) 452-0922	➢ 10 – 50
11.	**PITBLADO** 360 Main Street Winnipeg, MB R3C 4H6 Attention: **Mr. Robert P. Sokalski** Tel: (204) 956-3569 Fax: (204) 957-0227	➢ 10 – 50 ➢ Agents for Huck Birchard (SK)

MANITOBA		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
12.	**POLLOCK & COMPANY** 363 Broadway Winnipeg, MB R3C 3N9 Attention: **Mr. Harvey Pollock, Q.C.** Tel: (204) 924-4350 Fax: (204) 947-0109	➢ Less than 10
13.	**SHELDON D. ROSENSTOCK** 848 Waterloo Street Winnipeg, MB R3N 0T6 Attention: **Mr. Sheldon Rosenstock** Tel: (204) 488-4121 Fax: (204) 488-1869 Email: rosensto@shaw.ca	➢ Less than 10
14.	**SKINNER LAW OFFICE** 162 Fischer Avenue The Pas, MB R9A 1S4 Attention: **Mr. John Skinner** Tel: (204) 623-4200 Fax: (204) 623-1686	➢ Less than 10
15	**TAYLOR MCCAFFREY** 400 St. Mary Avenue 9th Floor Winnipeg, MB R3C 4K5 **Attention: Mr. Paul B. Forsyth** Tel: 204.988.0458 Fax: 204.953.7169 Email: pforsyth@tmlawyers.com	➢ Less than 10
16.	**THOMPSON DORFMAN SWEATMAN** CanWest Global Place 201 Portage Avenue Suite 2200 Winnipeg, MB R3B 3L3 Attention: **Mr. William G. Percy** Tel: (204) 934-2455 Fax: (204) 934-0517 Email: wgp@tdslaw.com	➢ More than 50 (222) ➢ Files in SK, MB and ON
17.	**TRONIAK LAW OFFICE** 444 St. Mary Avenue Winnipeg, MB R3C 3T1 Attention: **Mr. Dennis M. Troniak** Tel: (204) 947-1743 Fax: (204) 947-0101	➢ More than 50 (227)

ONTARIO		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**COHEN HIGHLEY LLP** One London Place 255 Queens Avenue 11th Floor London, ON N6A 5R8 Attention: **Mr. Russell Raikes** Tel: (519) 672-9330 Fax: (519) 672-5960 Email: rraikes@cohenhighley.com	➢ Cloud Class Action (plus 1 individual file)
2.	**DONALD R. COLBORNE** R.R. 13 Site 14, Comp 67 Thunder Bay, ON P7B 5E4 Attention: **Mr. Donald R. Colborne** Tel: (807) 344-6628 Fax: (807) 983-3079 Email: colborne@microage-tb.com	➢ Less than 10
3.	**DUBUC OSLAND** 350 Sparks Street Suite 706 Ottawa, ON K1R 7S8 Attention: **Ms Sylvie M. Molgat** Tel: (613) 236-3360 Fax: (613) 236-3771 Email: smolgat@dubucosland.com Attention: **Ms Shirley Mackey** Tel: (613) 236-3360 Fax: (613) 236-3771 Email: smackey@dubucosland.com	➢ Agent for Alberta Firm
4.	**GIRONES & ASSOCIATES** Barristers and Solicitors 16 Cedar Street South Timmins, ON P4N 2G4 Attention: **Mr. Lorenzo Girones** Tel: (705) 268-4242 Fax: (705) 264-1646 Email: lg@vianet.on.ca	➢ Less than 10
5.	**GOLDBERG, KRONICK & STROUD, LLP** 307 Gilmour Street Ottawa, ON K2P 0P7 Attention: **Mr. Russell Kronick** Tel: (613) 237-4922 ext. 233 Fax: (613) 237-2920 Email: rkronick@gsklaw.com	➢ More than 50

ONTARIO		
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6.	**GOODMAN & CARR LLP** 200 King Street West Suite 2300 Toronto, ON M5H 3W5 Attention: **Ms Susan M. Vella** Tel: (416) 595-2434 Fax: (416) 595-0567 Email: svella@goodmancarr.com	➢ 10 – 50
7.	**JOHN A. TAMMING LAW OFFICE** 8 Parker Street East Meaford, ON N4L 1G7 Attention: **Mr. John A. Tamming** Tel: (519) 538-3903 Fax: (519) 538-4579 Email: tamming@rogers.com	➢ 10 – 50
8.	**KOSKIE MINSKY LLP** P.O. Box 52 20 Queen Street West Suite 900 Toronto, ON M5H 3R3 Attention: **Mr. Kirk Baert** Tel: (416) 595-2117 Fax: (416) 977-3316 Email: kbaert@koskieminsky.com	➢ Cloud Class Action (co-counsel)
9.	**LEDROIT, BECKETT** Barristers and Solicitors 630 Richmond Street London, ON N6A 3G6 Attention: **Mr. Robert P. M. Talach** Tel: (519) 673-4994 Fax: (519) 432-1660 Email: rtalach@ledroitbeckett.com	➢ Less than 10
10.	**OLTHUIS KLEER TOWNSHEND** 229 College Street Suite 312 Toronto, ON M5T 1R4 Attention: **Ms Kate Kempton** Tel: (416) 981-9374 Fax: (416) 981-9350 Email: kkempton@oktlaw.com	➢ 10 – 50

ONTARIO		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
11.	**STANLEY E. MORRIS** P.O. Box 27024 600 Victoria Road East Thunder Bay, ON P7C 5Y7 Attention: **Mr. Stanley Edward Morris** Tel: (807) 627-0748 Fax: (807) 622-9049 Email: semorris@tbaytel.net	➢ 10 – 50
12.	**STORTINI LEE-WHITING, LLP** 80 Richmond Street West Suite 1704 Toronto, ON M5H 2C6 Attention: **Mr. Keith Lee-Whiting** Tel: (416) 368-1091 Fax: (416) 968-7234 Email: keith@stortinilee-whiting.com	➢ Less than 10
13.	**THE LAW OFFICES OF BRYCE V. GEOFFREY** Barrister, Solicitor, Notary Public 70 Gloucester Street Ottawa, ON K2P 0A2 Attention: **Mr. Bryce V. Geoffrey** Tel: (613) 237-0388 Fax: (613) 594-8581 Email: bglaw@magma.ca	➢ Less than 10
14.	**THOMSON ROGERS** 390 Bay Street Suite 3100 Toronto, ON M5H 1W2 Attention: **Mr. Craig Brown** Tel: (416) 868-3136 Fax: (416) 868-3134 Email: cbrown@thomsonrogers.com	➢ Baxter Class Action

ONTARIO		
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15.	**VERNON G. NAWAGESIC** 151 Queen Street North Suite 1110 Hamilton, ON L8R 2V7 Attention: **Mr. Vernon G. Nawagesic** Tel: (905) 536-6954 Email: vnawagesic@hotmail.com	➢ N/A (self represented)
16.	**WALLBRIDGE WALLBRIDGE** 24 Pine Street South Thunder Bay, ON P4N 2J8 Attention: **Mr. James Wallbridge** Tel: (705) 264-3100 Fax: (705) 267-1838 Email: james@wallbridgelaw.com	➢ More than 50

QUEBEC		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**ÉRIC LÉPINE** 460 rue St-Gabriel bureau 411 Montreal, QC H2Y 2Z9 Attention: **Me Éric Lepine** Tel: (514) 393-3326 Fax: (514) 392-7766	➢ Less than 10
2.	**GAGNE BENNETT** 1400 – 1155 , rue University Montreal, QC H3B 3A7 Attention: **Me Gilles Gagné** Tel: (514) 871-1206 Fax: (514) 871-5336 Email: gg.gabela@qc.aira.com Attention : **Me Hilary Bennett** Tel: (514) 871-1206 Fax: (514) 871-5336	➢ 10 – 50

NEW BRUNSWICK		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**ALLEN DIXON SMITH TOWNSEND** Frederick Square 77 Westmorland Street P.O. Box 190 Suite 340 Fredericton, NB E3B 4Y9 Attention: **Mr. John D. Townsend** Tel: (506) 453-0900 Fax: (506) 453-0907 Email: jdtownsend@nb.aibn.com	➢ Less than 10
2.	**BARRY SPALDING** 85 Charlotte Street P.O. Box 6010 RPO Brunswick Square Saint John, NB E2L 4R5 Attention: **Mr. John P. Barry, Q.C.** Tel: (506) 633-4211 Fax: (506) 633-4206 Email: jpb@barryspalding.com	➢ Less than 10
3.	**GAFFNEY & BURKE** 466 Bowlen Street Fredericton, NB E3A 2T4 Attention: **Mr. Thomas J. Burke** Tel: (506) 458-8124 Fax: (506) 458-2652 Email: gaffneyburke@nb.aibn.com	➢ Less than 10
4.	**LEBLANC BOUDREAU DESJARDINS MAILLET** 735 Main Street Suite 200 Moncton, NB E1C 1E5 Attention: **Mr. Pierre A. Boudreau** Tel: (506) 858-5666 ext. 111 Fax: (506) 858-5570 Email: pierre.boudreau@moncton.com	➢ Less than 10

NOVA SCOTIA		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**ARNOLD PIZZO MCKIGGAN** Trial Lawyers 5670 Spring Garden Road Suite 306 Halifax, NS B3J 3T2 Attention: **Mr. John A. McKiggan** Tel: (902) 423-2050 Fax: (902) 423-6707 Email: jmckiggan@apmlawyers.com	➢ More than 50

NEWFOUNDLAND		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**WHITE OTTENHEIMER & BAKER** Baine Johnston Centre 10 Fort William Place P.O. Box 5457 St. John's, NL A1C 5W4 Attention: **Mr. Jack Lavers** Tel: (709) 722-7584 Fax: (709) 722-9210 Email: wob@wob.nf.ca Attention: **Mr. Dan Simmons** Tel: (709) 722-7584 Fax: (709) 722-9210 Email: wob@wob.nf.ca	➢ Agent for Alberta Firm

YUKON TERRITORY		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**AUSTRING, FENDRICK FAIRMAN PARKKARI** 3081, 3rd Avenue Whitehorse, YT Y1A 4Z7 Attention: **Ms Debra L. Fendrick** Tel: (867) 668-4405 ext. 225 Fax: (867) 668-3710 Email: dfendrick@lawyukon.com Attention: **Mr. Keith D. Parkkari** Tel: (867) 668-4405 ext. 255 Fax: (867) 668-3710 Email: kparkkari@lawyukon.com	➢ Less than 10

YUKON TERRITORY		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
2.	**BARRY ERNEWEIN** 49 Redwood Street Whitehorse, YT Y1A 4B2 Attention: **Mr. Barry Ernewein** Tel: (867) 633-6553	➢ 10 – 50
3.	**CABOTT & CABOTT** 2131 – 2nd Avenue Suite 102 Whitehorse, YT Y1A 1C3 Attention: **Ms Laura Cabott** Tel: (867) 456-3100 Fax: (867) 456-7093 Email: laura.cabott@northwestel.net	➢ Less than 10
4.	**DAVIS & COMPANY** 304 Jarvis Street Suite 200 Whitehorse, YT Y1A 2H2 Attention: **Rodney A. Snow** Tel: (867) 393-5105 Fax: (867) 667-2669 Email: rod_snow@davis.om	➢ Less than 10
5.	**LACKOWICZ, SHIER & HOFFMAN** 204 Black Street Suite 300 Whitehorse, YT Y1A 2M9 Attention: **Daniel S. Shier** Tel: (867) 668-5252 Fax: (867) 668-5251 Email: dshier@yukonlaw.com	➢ More than 50 (125)

NORTHWEST TERRITORIES		
	PLAINTIFFS' COUNSEL	**NUMBER OF PLAINTIFFS**
1.	**FIELD LLP** 5102 Franklin (50th) Avenue Suite 203 Yellowknife, NT X1A 3S8 Attention: **Mr. Jack R. Williams** Tel: (867) 920-4542 Fax: (867) 873-4790 Email: jwilliams@fieldlaw.com	➢ More than 50

THIS IS EXHIBIT .....D..... REFERRED TO IN THE
AFFIDAVIT OF FRANK IACOBUCCI
SWORN BEFORE ME, THIS .....28th.....
DAY OF .....July..... 2006

.....

A Commission for Taking Affidavits

TORYS LLP
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Frank Iacobucci
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fiacobucci@torys.com

July 15, 2005

FAX

x
x
x
x

Dear ■:

Re: Residential Schools

Further to my letter dated July 4, 2005, I am writing to advise you of the schedule of counsel meetings for the month of August. Also, please find attached the draft agenda for the July 20 meeting in Saskatoon.

The dates for the counsel meetings are as follows:

(i) August 2 & 3 (Toronto)

(ii) August 10 & 11 (Edmonton)

(iii) August 16 & 17 (Vancouver)

(iv) August 23 & 24 (Toronto)

We will circulate draft agendas prior to each meeting.

I look forward to the initiation of these meetings on July 20 and the anticipated fruitful negotiations.

Sincerely,

Frank Iacobucci

The Honourable Frank Iacobucci

FI/ws

THIS IS EXHIBIT .....E..... REFERRED TO IN THE AFFIDAVIT OF FRANK IACOBUCCI

SWORN BEFORE ME, THIS .....28th.....

DAY OF .....July..... 2006

.....

A Commission for Taking Affidavits

PAST MEETINGS HELD
re: Indian Residential Schools Legacy

TORYS
Frank Iacobucci, John Terry and Amanda Kemshaw

June 6, 2005	Meeting with AFN - Chief Phil Fontaine, Kathleen Mahoney, Bob Watts, Sheilah Martin
June 14, 2005	Meeting with Dan Carroll, Jon Faulds and Darcy Merkur
June 16, 2005	Meeting with Catholic Representatives Dan Konkin and Rod Donlevy, Sister Gloria Keylor
July 12, 2005	Meeting with Mark Freeman (International Centre for Transitional Justice (ICTJ)) (John Terry and Amanda Kemshaw)
July 17, 2005	Traditional Ceremony at Pow Wow Island in Kenora, Ontario Town Hall Meeting in Sangheen, Manitoba (National Chief Phil Fontaine, Charlene Belleau and Ron Mandamin)
July 19, 2005	Meeting with Ted Hughes - Adjudication Secretariat Indian Residential Schools
July 20, 2005	Counsel Meeting (Saskatoon)
July 21 & 22, 2005	Telephone conference and meeting with Ecumenical Society Catholic - Rod Donlevy United - David MacDonald - Cynthia Gunn - Jamie Scott Anglican - Ellie Johnson - Terry Findlay - Alvin Dickson Presbyterian - Stephan Kendall - Ian Morrison - Jim Boyle
July 27, 2005	Meeting with Mark Freeman and Graeme Simpson (ICTJ)
August 3 & 4, 2005	Counsel Meetings (Toronto)
August 4, 2005	Meeting with AFN

August 5, 2005	Meeting with Aaron Renert (AFN)
August 9, 2005	Meeting with Maggie Hodgson (IRSRC) (Aboriginal Working Caucus) and Tour of Nechi Training & Research Centre (Edmonton)
August 10 & 11, 2005	Counsel Meetings (Edmonton)
August 12, 2005	Meeting with Graham Brown (St. Paul's College - University of Waterloo)
August 15, 2006	Meeting with the Truth and Reconciliation Working Group (Vancouver) (Amanda Kemshaw)
August 16 & 17, 2005	Counsel Meetings (Vancouver)
August 18, 2005	Meeting with Mark Rowan (Counsel for Oblates) and Father Vincent LaPlante (Vancouver)
	Meeting with Violet Allard (Church of the Sister Jesus) and Sister Bernadette (Vancouver)
	Meeting with B.C. Survivors Society, Dr. Chief Robert Joseph (Vancouver)
	Meeting with the Truth Sharing, Healing and Reconciliation Round Table (Vancouver)
August 19, 2005	Meeting with Georges Erasmus and Mike Degagne (Aboriginal Healing Foundation)
August 22, 2005	Meeting with Mayo Moran re: University of Toronto Truth and Reconciliation Colloquium
August 24, 2005	Counsel Meeting (Toronto)
August 25, 2005	Meeting with Charleen Belleau - Alkali Lake Presentation
	Meeting with the Truth and Reconciliation Working Group (Toronto) (Amanda kemshaw)

August 26, 2005	Telephone conversation with Nelli Cournoya, Gerry Roy, Hugo Prud'homme and Rosemary Kuptana regarding setting up meeting with Inuit Groups.
August 31, 2005	Conference call with the Truth and Reconciliation Working Group (Amanda Kemshaw)
September 1, 2005	Conference call with Inuit groups
	Telephone conversation with Rod Donlevy re Catholic proposal
September 2, 2005	Telephone conference call with Ruth Majores (Siksika First Nation of the Black Foot Confederacy - Alberta)
September 6, 2005	Meeting with Metis National Counsel, Clement Chartier, Jason Madden
September 9, 2005	Meeting with the Truth and Reconciliation Working Group (Amanda Kemshaw)
September 12 & 13, 2005	Counsel Meetings (Calgary)
September 14, 2005	Aboriginal Working Caucus Meeting - Six Nations, Brantford, Ontario
September 16/17/18, 2005	University of Toronto Reconciliation Colloquium
September 20, 2005	Meeting with Ted Hughes - Chief Adjudicator - ADR
September 28 & 29, 2005	Meetings with the Truth and Reconciliation Working Group (Amanda Kemshaw)
October 5, & 6, 2005	Meetings with the Truth and Reconciliation Working Group (Amanda Kemshaw, John Terry and Frank Iacobucci)
October 7, 2005	Meeting with Congress of Aboriginal Peoples, Chief Dwight Dorey and Gordon Williams
October 11, 12, 13, 14 2005	Counsel Meetings (Toronto)
October 20, 2005	Meeting with AFN
	Meeting with Tony Merchant

	Meeting with National Consortium
October 21, 2005	Telephone conversation with Chris Devlin (CBA Aboriginal Law Section)
	Meeting with Cree counsel, Diane Soroka
	Meeting with Inuit group - Hugo Prud'homme, Rosemary Kuptana Simon Routh, Gilles Gagne, Janice Payne
October 25 & 26, 2005	Meeting with the Truth and Reconciliation Working Group (Vancouver) (Amanda Kemshaw)
October 26, 2005	IAP Working Group Meeting (Vancouver) (Amanda Kemshaw)
October 31, 2005	Telephone conference with Pierre Baribeau and Rod Donlevy (RCC counsel)
November 2, 2005	Meeting with AFN, Chief Phil Fontaine, Charlene Belleau, John Phillips, James Eamon, Kathleen Mahoney, Aaron Renert
November 3, 2005	Counsel Meetings (Baxter/Merchant Group, B.C./Yukon Group, Cree, and Inuit Groups) (Toronto)
November 4, 2005	Counsel Meetings (IAP) (Toronto)
November 9, 2005	Meeting with the AFN
November 10, 2005	Meeting with the National Consortium (John Terry)
November 14, 2005	Telephone conference call with RCC Counsel
November 15, 2005	Telephone conference call with Aboriginal Healing Foundation
	Meeting with National Consortium (John Terry)
November 16 - 20, 2005	Counsel Meetings (Toronto)
November 23, 2005	Press Conference in Ottawa
	Telephone conference with CBA - Aboriginal Law Section (John Terry, Amanda Kemshaw)
December 2, 2005	Telephone conference with the National Consortium
December 7, 2005	Meeting with the Aboriginal Working Caucus (Ottawa) (Amanda Kemshaw)

December 8, 2005	Meeting with Jeffrey Hewitt and David Nahwegahbow from the Indigenous Bar Association (Toronto)
December 12, 2005	Telephone conference with Ron Ignace (Task Force on Aboriginal Languages and Cultures)
December 16, 2005	Meeting with Beverly Jacobs from the Native Woman's Association
January 4, 2006	National Consortium Meeting (John Terry)
January 5, 6, 7, 2006	Meeting with the Truth and Reconciliation Working Group (Calgary) (Amanda Kemshaw)
January 10 & 11, 2006	Conference calls with Lisa Magarrell and Mark Freeman (ICTJ) (Amanda Kemshaw)
January 16, 17, 2006	Meeting with the Truth and Reconciliation Working Group (Calgary) (Amanda Kemshaw)
January 19, 20 & 21, 2006	RCC Meetings
January 24, 2006	Meeting with Cree Chief Mathew Mukash (Frank Iacobucci, John Terry)
January 25, 2006	Telephone conference - National Certification Committee (John Terry)
January 27, 2006	Telephone conference with AFN (John Terry)
January 30 & 31, 2006	Counsel Meetings (Toronto)
January 31, 2006	Telephone conference: ICC Canadian National Arbitration Committee: Development and marketing Subcommittee
February 1, 2006	Counsel Meetings (Toronto)
February 2, 2006	Meeting with Jayne Menard and Dave Turzillo (Poorman, Douglas)

MEETINGS HELD REGULARLY AND ATTENDEES

Truth and Reconciliation Working Group Meetings held Regularly Amanda Kemshaw	Maggie Hodgson Mike Degagne Robert Hay Tamara Thermitus Doug Kropp Jim Doyle Andrew Wesley Jamie Scott Alvin Wesley Chief Phil Fontaine Aaron Renert Charlene Belleau Bob Watts Kathleen Mahoney David Patterson Stacey Stone Aideen Nabigon Alvin Dixon Chief Robert Joseph Rosemary Kuptana Sharon Thira David MacDonald	- Aboriginal Working Caucus - Aboriginal Healing Foundation - IRSRC - IRSRC - Department of Justice - Anglican Church - Anglican Church - United Church - Roundtable - AFN - AFN - AFN - AFN - AFN - Plaintiff counsel - IRSRC - Health Canada - IRSSS - IRSSS - Inuvialuit Regional Corporation - IRSSS - United Church
Data Working Group John Terry	Aaron Renert Brian O'Reilly Christina Moore Tony Merchant Gilles Gagne Hugo Prudhomme Lisa Campbell Darcy Merkur	- AFN - B.C. counsel - Department of Justice - Plaintiff counsel - Plaintiff counsel - Inuit - Department of Justice - Baxter
Counsel Meetings and Break Out Meetings	Held periodically.	
Steering Committee Meetings	Held regularly for updates	
Telephone conference calls with Minister Anne McLellan	Re updates on matter, held regularly	
Telephone conferences with Mario Dion	Held regularly	

THIS IS EXHIBIT ..... REFERRED TO IN THE
AFFIDAVIT OF FRANK IACOBUCCI
SWORN BEFORE ME, THIS .....
DAY OF 2006

.....

A Commission for Taking Affidavits

November 20, 2005

CANADA, as represented by The Honourable Frank Iacobucci

- and -

PLAINTIFFS, as represented by the National Consortium, Merchant Law Group, and other legal counsel as undersigned

- and -

THE ASSEMBLY OF FIRST NATIONS

- and -

THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA, THE PRESBYTERIAN CHURCH IN CANADA, THE UNITED CHURCH OF CANADA AND ROMAN CATHOLIC ENTITIES

AGREEMENT IN PRINCIPLE

WHEREAS Canada and certain religious entities operated Indian Residential Schools for the education of aboriginal children and certain harms and abuses were committed against those children;

AND WHEREAS the parties desire a fair, comprehensive and lasting resolution of the legacy of Indian Residential Schools;

AND WHEREAS the parties further desire the promotion of healing and reconciliation;

AND WHEREAS the parties agree that this Agreement in Principle should form the basis of a comprehensive settlement package that the Honourable Frank Iacobucci will recommend to Canada;

AND WHEREAS the parties agree that the comprehensive settlement will not be effective anywhere until approved by every court as set out herein;

AND WHEREAS the Federal Representative has recommended that an advance payment on the Common Experience Payment will be made to certain elderly former students;

THEREFORE, in consideration of the mutual covenants set out herein, the parties have entered into this Agreement in Principle.

I. DEFINITIONS

"Church"or **"Church organization"** means any one or more of the entities listed in Schedule "A" hereof (the "Roman Catholic entities"), the General Synod of the Anglican Church of Canada[1], the United Church of Canada, the Presbyterian Church in Canada;

"Common Experience Payment" means the lump sum payment described herein ;

"Designated Amount" means $1,900,000,000.00;

"DR Model" means the dispute resolution model offered by Canada since November 2003;

"Eligible CEP Recipient" means all former students who resided at Indian Residential Schools.

"Eligible IAP Claimant" means all Eligible CEP Recipients and claimants who, while under the age of 21, were permitted by an adult employee to be on the premises of an Indian Residential School to take part in authorized school activities;

"Federal Representative" means the Honourable Frank Iacobucci;

"Independent Assessment Process" ("IAP") means the process for the determination of individual abuse claims attached hereto as Schedule "B";

[1] It is understood that General Synod of the Anglican Church of Canada agrees to be bound by these provisions and to recommend them to all Dioceses and the Missionary Society.

"Indian Residential Schools" means the following:

1. Institutions listed on List "A" to IRSRC's Dispute Resolution Process attached as Schedule "C" (Whitehorse Baptist Mission to be re-added);

2. Institutions listed in Schedule "D" ("Additional Residential Schools") which may be amended from time to time; and,

3. any institution which is determined to meet the following criteria:

   (a) The child was placed in a residence away from the family home by or under the authority of the federal government for the purposes of education; and,

   (b) The federal government was jointly or solely responsible for the operation of the residence and care of the children resident there.

   (c) Indicators that the residence was federal in nature include, but are not limited to, whether:

      (i) The institution was federally owned;

      (ii) The federal government stood as the parent to the child;

      (iii) The federal government was at least partially responsible for the administration of the institution;

      (iv) The federal government inspected or had a right to inspect the institution; or,

      (v) The federal government did or did not stipulate that the institution was an IRS.

"NAC" means the national administration committee as described herein.

II. COMPENSATION TO ELIGIBLE CEP RECIPIENTS

1. Canada will make a Common Experience Payment to every Eligible CEP Recipient who was alive on May 30, 2005.

2. The amount of the Common Experience Payment will be:

   (a) $10,000 to every Eligible CEP Recipient who attended an Indian Residential School for one school year or part thereof.

   (b) $3,000 for each school year (or part thereof) thereafter that an Eligible CEP Recipient attended a residential school.

   (c) An Eligible CEP Recipient who accepts the Common Experience Payment will be deemed pursuant to the court orders contemplated by this Agreement in Principle

to have released Canada and the Church Organizations for all claims arising out of his or her residential School experience or attendance but will retain the right to pursue a claim in accordance with the terms and conditions of the Individual Assessment Process set forth below.

3. To effectuate the distribution of the Common Experience Payments, Canada will transfer the Designated Amount to Service Canada and will develop application procedures for Eligible CEP Recipients that will reflect the need for simplicity of form, expedition of payments, and an appropriate form of audit verification in consultation with all parties.

4. The Federal Representative will recommend to the Deputy Prime Minister that the Minister of Finance designate that the Designated Amount be entitled to earn interest pursuant to Canada's policy applicable thereto; any interest would be added to the Designated Amount.

5. In the event that the Designated Amount is insufficient to pay all Eligible CEP Recipients the Common Experience Payments to which they are entitled, Canada agrees to add a sufficient amount to remedy any deficiency in this respect.

6. In the event the Designated Amount proves to be in excess by more than $40,000,000 of the total amount required to pay all Eligible CEP Recipients their Common Experience Payments, Canada agrees to cause Service Canada to credit each Eligible Recipient with an amount up to $3,000 for each Eligible CEP Recipient for Personal Healing (the "Personalized Healing Amount") services from a list of healing entities or groups jointly approved by Canada and the AFN pursuant to terms and conditions to be developed by Canada and the AFN with input from all the parties that will reflect ease of access to any genuine programmes for healing among other factors. A similar set of terms and conditions will be developed by Canada and Inuit organizations for Eligible CEP Recipients who are Inuit. If the excess after payment of the Common Experience Payments is less than $40,000,000, such lesser amount will be paid to the Aboriginal Healing Foundation.

7. In the further event that the Designated Amount proves to be in excess of the amount required to pay the Personalized Healing Amounts, Canada agrees that Service Canada will transfer any such excess to the Aboriginal Healing Foundation.

8. It is agreed that Canada will assume the costs of verifying claims for the Common Experience Payments and administrative expenses relating to their distribution.

III. SETTLEMENT AGREEMENT PROVISIONS FOR THE INDEPENDENT ASSESSMENT PROCESS

1. The parties agree that the only IRS claims which may be pursued by former students of Indian Residential Schools and the compensation to be paid for such claims when proven, are as set out at pages 2-6 of the IAP attached as Schedule "B".

2. The parties further agree that the Instructions set out at pages 29-35 of the IAP are approved, subject to minor wording changes consistent with the intended meaning.

3. The parties further agree that the remaining standards for the IAP shall be substantially as set out in Schedule "B".

4. No limitations defence will be advanced in any continuing claim diverted by the Chief Adjudicator to the courts. Canada will rely on Crown immunity in such claims where applicable.

5. It is agreed that Canada will provide sufficient resources to permit, after a 6 month lead-in period, the resolution of no fewer than 2500 continuing claims per year, and to maintain the current standard of offering an IAP hearing, or to resolve an IAP claim, within nine months of an application having been screened in, provided the delay is not the responsibility of the claimant. Where these goals are not achieved the NAC may request that the government provide additional resources for claims processing, or may apply to the court for an order making changes to the IAP process sufficient to permit the realization of these goals.

IV. TRUTH AND RECONCILIATION

A Truth and Reconciliation process will be established substantially in the form attached hereto as Schedule "E".

V. COMMEMORATION

1. Canada will provide funding for commemoration initiatives, events, projects and memorials with respect to Indian Residential Schools at both the national and community level.

2. Such funding will be approximately $20 million covering both national commemorative and community-based activities and projects including funding already authorized.

VI. HEALING

1. Canada will provide one hundred and twenty-five million dollars ($125,000,000) as an endowment to the Aboriginal Healing Foundation to fund healing programmes over a five year period to address the legacy of harms including the physical and sexual abuse suffered in Indian Residential Schools.

2. In the fourth year after the court orders approving the settlement package, Canada agrees to have an evaluation of the healing initiatives and programmes undertaken by the Aboriginal Healing Foundation to determine the efficacy of such initiatives and programmes and to recommend whether and to what extent funding should continue.

VII. INUIT AND INUVIALUIT

For greater certainty, all Inuit and Inuvialuit students who attended institutions listed on Schedule "C" while such schools operated as residential schools or Schedule "D" are eligible for the CEP and will have access to the IAP in accordance with its terms.

The government will continue to research institutions from the list attached as Schedule "F" and provide a determination before December 1, 2005.

VIII. CHURCH PROVISIONS

The churches[2] and church entities agree that, as parties to the Settlement Agreement, they will:

1. Provide, at their own expense, assistance with witnesses and access to documents for the resolution of continuing claims on terms substantially similar to the following:

   -comply with all reasonable requests from Canada for information and assistance during the proceedings;

   -provide counsel for Canada and any researchers or experts retained by it, with full access to all relevant files and databases, excepting documents with respect to which solicitor-client privilege or other lawful privilege applies and is asserted. Any information obtained from records pursuant to this section will be used exclusively for the defence of the continuing claim or claims for which the information was sought unless otherwise agreed in writing; and

   -in litigation, provide disclosure and production of relevant documents in their possession or control, provide witness statements on request, attend as appropriate at the discovery of their witnesses, and otherwise facilitate the testimony of witnesses within their employ.

2. Provide along with Canada for the provision of all relevant documents to and for the use of the Truth and Reconciliation Commission, subject only to overriding concerns about the privacy interests of an individual. In such cases, researchers for the Commission shall have access to such documents provided privacy is respected.

3. Refrain from advancing or relying upon any limitations or laches defence in any continuing claim for which the Chief Adjudicator authorizes recourse to the courts, and pay any judgement in such claims to which they are a party and in which the Crown is immune from liability, provided that the Crown has agreed to indemnify the Church.

4. The Crown may settle any continuing claims without a hearing, subject to any rights of consultation set out in an applicable Church/Crown agreement.

5. Binding financial and other commitments will be entered into with the Crown concerning the resolution of the IRS legacy on terms substantially similar to existing letters of understanding with the Crown and certain denominations and the Memorandum of Understanding between the Crown and the Catholic entities.

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[2] It is understood that General Synod of the Anglican Church of Canada agrees to be bound by these provisions and to recommend them to all Dioceses and the Missionary Society.

The Government confirms its commitment to renegotiate existing church agreements to give effect to the most favoured nation clauses found within them with a view to maintaining equity among the denominations.

IX. ADDITIONAL INDIAN RESIDENTIAL SCHOOLS

Any person or organization ("Requestor") may propose institutions to be added to Schedule "D" by submitting the name of the institution and any relevant information in their possession to the government;

The government will research the proposed institution and determine whether it meets the test set out in part 3 of the definition of Indian Residential Schools and advise the Requestor and the national administration committee and provide the reasons for the determination and all the information on which the decision was based within 60 days;

Should either the Requestor or the national administration committee dispute the government's determination, they may apply to the class action court in the jurisdiction where they reside or, if they reside outside Canada, the Ontario Court for a determination of the issue.

X. IMPLEMENTATION

The implementation of the final settlement judgment shall be accomplished substantially in the form attached hereto as Schedule "G".

XI. SOCIAL BENEFITS OR SOCIAL ASSISTANCE BENEFITS

Canada will use its best efforts to obtain agreement with provincial and territorial governments and any federal government departments to ensure that the receipt of any payments under the settlement agreement will not affect the amount, nature or duration of any social benefits or social assistance benefits available or payable to an Eligible CEP Recipient or Eligible IAP Claimant. The other parties also agree to use their best efforts to reach similar results.

XII. LEGAL FEES

WHEREAS legal counsel have done very substantial work on behalf of Eligible CEPRecipients for many years, have contributed significantly to the achievement of the Agreement in Principle and have undertaken not to seek payment of legal fees in respect of the Common Experience Payment to be paid to Eligible CEP Recipients, Canada agrees to compensate legal counsel in respect of their legal fees as follows.

1. Each lawyer who had a retainer agreement or a substantial solicitor-client relationship (a "Retainer Agreement") with an Eligible CEP Recipient as of May 30, 2005 (the date that the Federal Representative's appointment was announced) shall be paid an amount equal to the lesser of the amount of outstanding Work-in-Progress as of the date of the Agreement in Principle in respect of that Retainer Agreement or $4,000, plus reasonable disbursements, and GST and PST, if applicable.

2. Each lawyer, other than lawyers representing the Churches, who attended the settlement negotiations beginning July 2005 leading to the Agreement in Principle shall be compensated for time spent up to the date of the Agreement in Principle in respect of the settlement negotiations at his or her normal hourly rate, plus reasonable disbursements, and GST and PST, if applicable.

3. Each lawyer shall provide to the Federal Representative an affidavit or statutory declaration that attests to the number of Retainer Agreements he or she had with Eligible Recipients as of May 30, 2005 and the amount of outstanding Work-in-Progress in respect of each of those Retainer Agreements as docketed or determined by review. The Federal Representative shall rely on these affidavits to verify the amounts being paid to lawyers and shall engage in such further verification processes with individual lawyers as circumstances require with the consent of the lawyers involved, such consent not to be unreasonably withheld.

4. The National Consortium and the Merchant Law Group shall each be paid $40,000,000 plus reasonable disbursements, and GST and PST, if applicable, in recognition of the substantial number of Eligible CEP Recipients each of them represents and the class action work they have done on behalf of Eligible CEP Recipients. Paragraphs 1, 2 and 3 above shall not apply to any lawyer who is a partner of, employed by or otherwise affiliated with a National Consortium member law firm or the Merchant Law Group.

5. The Federal Representative shall engage in such further verification processes with respect to the amounts payable to the Merchant Law Group and National Consortium as have been agreed to.

6. No lawyer or law firm that has taken part in these settlement negotiations or who accepts a payment for legal fees from the Canada shall charge an Eligible CEP Recipient any fees or disbursements in respect of the Common Experience Payment paid to that Eligible CEP Recipient.

7. Legal fees payable to legal counsel from November 20 forward shall be paid in accordance with the terms set out in Articles 44 and 45 of Schedule "G" to this Agreement in Principle.

8. All legal fees payable under the above provisions shall be paid no later than 60 days after the expiry of the latest applicable opt-out period.

9. The National Consortium member law firms are as follows:

Thomson, Rogers	Troniak Law Office
Richard W. Courtis Law Office	Koskie Minsky
Field LLP	Leslie R. Meiklejohn Law Office

David Paterson Law Corp.	Huck Birchard
Docken & Company	Ruston Marshall
Arnold, Pizzo, McKiggan	Rath & Company
Cohen Highley LLP	Levene Tadman Gutkin Golub
White, Ottenheimer & Baker	Coller Levine
Thompson Dorfman Sweatman	Adams Gareau
Ahlstrom Wright Oliver & Cooper	

XIII. TRANSITION PROVISIONS

It is agreed that the no prejudice commitment set out in the letter of the DM of IRSRC dated July, 2005, and attached as Schedule "H" means that following the coming into force of the final settlement agreement:

1. All Eligible CEP Recipients are entitled to receive the CEP regardless of whether a release has been signed or a judgment received for their IRS claim.

2. Where a release of an IRS claim was signed after May 30, 2005 in order to receive the payment of an award under the DR Model:

   (a) the government will recalibrate the award in light of the compensation scale set out at page 6 of Schedule "B";

   (b) the claimant may have their hearing re-opened to reconsider the assignment of points under the Consequential Loss of Opportunity category in Schedule "B", and pursuant to the standards of the IAP, in any case where the adjudicator assessed their claim as falling within the highest level in the Consequential Loss of Opportunity scale in the DR Model;

   (c) a claimant who alleges sexual abuse by another student at the SL4 or SL5 category, where such abuse if proven would be the most serious proven abuse in their case, may have their hearing re-opened to consider such an allegation in accordance with the standards of the IAP.

3. Following the coming into force of a final settlement agreement, Canada will, at the request of a claimant whose IRS abuse claim was settled by Canada without contribution

from a Catholic entity which was party to such claim and is a party to this Agreement in Principle, such settlement having been for an amount representing a fixed reduction from the assessed Compensation, offer to pay the balance of the assessed compensation to the Claimant. Provided, however, that no amount shall be paid to a Claimant pursuant to this section until the Claimant agrees to accept such amount in full and final satisfaction of his or her claim against the Catholic Defendants, and to release the Catholic Defendants.

As well until a final settlement agreement comes into force, Canada will make best efforts to resolve cases currently in litigation, including those that would not fit within the IAP.

XIV. CONFIDENTIALITY

Save as required by law, the parties agree that the undertaking of confidentiality as to discussions and all communications, whether written or oral, made in and surrounding the negotiations leading to this Agreement in Principle continues in force.

XV. COMMUNICATIONS

Save as required by law, the parties agree to not engage in any media or public communication as to this Agreement in Principle until after its approval by Cabinet. Following approval by Cabinet, Canada will make an initial public announcement.

XVI. FINAL SETTLEMENT AGREEMENT

It is acknowledged by the parties that further discussion will be necessary to give effect to the provisions of this Agreement in Principle in a final settlement agreement. Canada agrees to compensate lawyers for time spent in such further discussions between the date of execution of this Agreement In Principle and the date of execution of the final settlement at the lawyers' normal hourly rates, plus reasonable disbursements and GST and PST, if applicable.

It is understood by all the Parties that the Federal Representative is recommending to Canada that this Agreement in Principle should form the basis of a comprehensive settlement package and the Federal Representative has no authority to bind Canada.

Signed this 20th day of November, 2005.

THE FEDERAL REPRESENTATIVE

By: _____
The Honourable Frank Iacobucci

ASSEMBLY OF FIRST NATIONS

By: _____
Phil Fontaine, National Chief

By: _____
Kathleen Mahoney

CABOTT & CABOTT

By: _____
for Laura Cabott

COHEN HIGHLEY LLP

By: _____
Russell Raikes

HEATHER SADLER JENKINS

By: _____
Sandra Staats

HUTCHINS, GRANT & ASSOCIATES

By: _____
Peter R. Grant

Brian O'Kaily

INUVIALUIT CORPORATION

By: _____
Hugo Prud'homme

KESHEN & MAJOR

By: _____
Greg Rickford

MERCHANT LAW GROUP

By: _____
E. F. Anthony Merchant, Q.C.

NATIONAL CONSORTIUM

By: _____
Craig Brown

NELLIGAN O'BRIEN PAYNE

By: _____
Lori O'Neill

THE GENERAL SYNOD OF THE ANGLICAN CHURCH OF CANADA

By: _____
S. John Page

THE PRESBYTERIAN CHURCH IN CANADA

By: _____
S. John Page

THE UNITED CHURCH OF CANADA

By: _____
Alexander D. Pettingill

CATHOLIC ENTITIES

By: _____
W. Roderick Donlevy

By: _____
Pierre L. Baribeau

FULTON & COMPANY

By: _____
Leonard S. Marchand

MARVIN CORPORATION

per: _____
GILLES GAGNÉ

Court File No.: 05-CV-294716CP

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

LARRY PHILIP FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Mary Fontaine, deceased, JAMES FONTAINE in his personal capacity and in his capacity as the Executor of the Estate of Agnes Mary Fontaine, deceased, FRED KELLY, VINCENT BRADLEY FONTAINE, and NATIONAL INDIAN BROTHERHOOD also known as ASSEMBLY OF FIRST NATIONS

Plaintiffs

- and –

THE ATTORNEY GENERAL OF CANADA

Defendant

Proceeding under the Class Proceedings Act, 1992

AFFIDAVIT OF LARRY PHILIP FONTAINE

SWORN THE DAY OF , 2006

I, **LARRY PHILIP FONTAINE**, of the City of Ottawa, in the Province of Ontario, MAKE OATH AND STATE THAT:

1. I and several generations of my family and extended family attended Indian Residential Schools (hereinafter referred to as "IRS"), and as such I have personal knowledge of matters hereinafter deposed to by me except where same are stated to be based on information and belief.

2. I am the National Chief of the Assembly of First Nations (hereinafter referred to as the "AFN"). The AFN is composed of six hundred thirty-three (633) First Nations represented by their respective elected Chiefs. The AFN is the national representative body of First Nations and the National Chief is democratically elected by the Chiefs of the First Nations of Canada. The AFN mandate is to communicate, advance and protect the legal and political rights of its constituents.

3. I am one of the representative plaintiffs in this proceeding. I bring this action on my own behalf and on behalf of all Survivor Class Members and Deceased Class Members (the "Survivor Class" and the "Deceased Class"), as described and defined in the Master Statement of Claim (the "Master Claim").

4. As is outlined later in this affidavit, I have worked personally and professionally to bring the issue of residential schools to public attention, and have sought a resolution for survivors for almost 20 years. Since first bringing this issue to the public attention, I have consistently maintained that any resolution must first and foremost involve public acknowledgement, reconciliation, commemoration and healing and that the IRS history and legacy must become part of the public record in Canada. I have come to understand and firmly believe that the devastation caused to generations of First Nations people by the IRS policy must be publicly documented for future generations, and for the process of healing in our communities to begin.

5. I have reviewed and considered the settlement package and have consulted with class counsel in relation to same. I have also reviewed the settlement package with countless Survivor Class Members and numerous Chiefs, both as a former student of an IRS and in my capacity as the elected National Chief of the AFN and I believe that the settlement package is for the benefit of the Survivor Class Members and meets our objective of securing a fair and just resolution of the residential school legacy.

6. I also believe that even though there is no financial compensation for the estates of former students who passed away before May 30, 2005, the Deceased Class will nonetheless benefit from this settlement because of the acknowledgement, memorialization, commemoration,

truth and reconciliation and healing portions of the agreement. I believe that these reconciliation, commemoration and healing initiatives form the strength and foundation of the agreement.

7. This settlement attempts to acknowledge and address the wounds suffered by all First Nations people rather than focusing solely on individual former students who were abused. Many former students are now dead, and yet the legacy of their pain and the memory of their courage and strength remain with us. The injuries inflicted upon them have contributed to the devastation of our culture and way of life in ways that cannot be repaired. No amount of money will undo or compensate for the systemic effects of the IRS policy on the First Nations. Instead, this settlement works towards allowing our communities to heal and move forward. We are seeking to achieve this through initiatives that focus on commemoration, truth and reconciliation, and most importantly healing.

8. There is individual compensation for survivors who were living as of May 30, 2005, the date when the AFN and Canada, through a nation to nation negotiation, reached the *Political Agreement.* There is no perfect answer in determining which deceased former students should recover individual compensation, but this settlement tries to balance the expectations of individuals and their families arising out of the May 30, 2005 *Political Agreement.*. This settlement provides individual class members, in their communities, with the mechanisms and support to address the IRS legacy in ways that they see fit through the Truth and Reconciliation process and commemoration projects or activities. However, those who are not satisfied with the balance in this agreement may opt out of these proceedings, and assert their rights in other means.

9. Regarding the legal fee component of the Settlement Agreement, I would like to clarify that counsel for the AFN are being compensated on an hourly rate and their fees are not a part of the sum allocated to legal costs in the Settlement Agreement. While the *Political Agreement* calls for the restriction of legal fees in the event of an agreement, I agree that individuals should be compensated for the work done, and the compensation should take into account factors such as the risk associated with starting the original actions. I also agree with the process that was negotiated with independent counsel which calculates a maximum amount of four thousand dollar ($4,000) legal cost per retainer, on the condition that there is a

corresponding and appropriate verification process that is executed to ensure that payments stay within this original threshold. Payment of legal fees must be linked to the services provided and should not be a windfall.

10. The AFN was not privy to the negotiations regarding legal fees for either the National Consortium or the Merchant Group, other than broad discussions of legal fees for lawyers in the process and generally. While the maximum limit of the fees for both the National Consortium and the Merchant Group was discussed at the plenary sessions and ultimately agreed upon, these two groups entered into separate verification agreements which were first seen by the AFN in May 2006. As per the fee agreement with independent counsel, I believe that the payment of legal fees under either of these agreements must be subject to an executed verification process in order to ensure that the legal fees are proportional and linked to the services provided and that the fees do not become a windfall.

MY ATTENDANCE AT FORT ALEXANDER AND THE ASSINIBOIA INDIAN RESIDENTIAL SCHOOLS

11. I was born on September 20, 1944 and am a citizen of the Sagkeeng First Nation, in the province of Manitoba.

12. I was taken from my family when I was 6 years old, and was made to attend Fort Alexander Indian Residential School in Fort Alexander, Manitoba, from 1951 to 1958. In grade 8, I was sent to the Assiniboia Indian Residential School in Winnipeg and spent three years there before attending a public school for grades 11 and 12. In total, I spent ten years in two residential schools, only returning to my home in the summer months of July and August even though my home was within sight of the Fort Alexander IRS.

13. While attending residential school, I was removed from the love, care, and spiritual guidance of my parents, family, elders and community. I was discouraged from speaking in Ojibway, our indigenous language or follow our spiritual tradition. I was separated from and could not communicate with my brothers and sisters who attended the same school. I was repeatedly sexually and physically abused. I was told by the nuns and priests that I, and the other children around me, were "savages" and "evil", and on different occasions was made to eat food

off the floor in front of other children. This food had been thrown on the floor by other children when they found it inedible, and because I was known as a picky eater, I was blamed and then forced to eat food from the floor as a form of punishment.

14. I was not given adequate food, health care or education.

15. Many members of my family and friends had gone to residential schools throughout the years, and we would talk about our experiences with each other. Talking and sometimes joking about what had happened was a way for us to deal with our experiences and the more shameful incidents with a sense of dignity. Because of our conversations, we also knew what had happened to others at the schools, even if we hadn't witnessed them being abused. This includes the abuse, the humiliation and the deprivation they experienced, but I also witnessed children being severely abused on many occasions.

16. When I first attended the Fort Alexander Residential School, I had four older brothers who were still students at that school. At one point, there were six of us at the school after my younger sister, Thelma, entered. We were in different sections of the school and we were not allowed to associate with each other, so even though we were at the same school, we were denied the mutual protection and comfort of each other's company during our growing-up years. I knew that I would be punished if I tried to visit them in their sections of the school. My mother and father also had been students at that school; I had a picture of my father at Fort Alexander IRS in 1917 with a group of boys taken when he was 14. And before them, my father's mother Therese had been a student at an industrial school in Saint Boniface in 1885. Industrial schools preceded the residential schools and were modeled on those in the United States.

17. My mother was Agnes Mary Fontaine (nee Spence) ("Spence"); she was a member of the Sagkeeng First Nation and was born on June 28, 1912 and died on August 10, 1988. I am the executor of her estate. My mother was taken from her own family when she was seven (7) years old to reside at the Fort Alexander Residential School from 1919 to 1928. She suffered by being removed from the care of her parents, family, and community, by not being allowed to

speak her native language or practice traditional spiritual ways. She also suffered sexual, physical and emotional abuse, and was given inadequate food, health care, and education.

18. It is tragic that so many have died during this fight to have the wrongs that were perpetrated on Aboriginal people through residential schools acknowledged. It is also unfortunate that the estates of deceased former students will not receive monetary compensation through this settlement agreement; however, I believe that this agreement honors the memory of those who have already died through the commemoration, and truth and reconciliation initiatives. They are also honored by the healing initiatives that will support their families and communities. I do not believe that we could have reached an agreement that would have provided more for the deceased, and that compromise was required in order to ensure that we could achieve some level of compensation for the living.

19. The deceased members are also protected by the agreement as it allows executors to opt out of the settlement, if they do not believe it is in the best interest of the estate. As a result of this opt-out right, the estate claims can protect themselves and return to their original state if they choose to opt-out; consequently, the estates are in no different position as a result of this settlement and its approval. In addition, the individual Deceased Class members' freedom to participate in, or opt out of the Settlement has been protected by a detailed and comprehensive Notice Program conjoined with a lengthy opt out period (5 months). Individual Deceased Class members may choose to opt out without jeopardizing the Settlement itself, since only Survivor Class members are included in the opt-out threshold.

RECOGNIZING THE IMPACT OF THE RESIDENTIAL SCHOOL EXPERIENCE

20. After graduating from high school, I wanted to better understand the history of the places where I, my family, and my people had spent their youth. I wanted to overcome the fears I had of the clergy and demonstrate my pride, dignity and identity. I wanted to validate my accomplishments, notwithstanding the effort of the residential schools to deny them.

21. Although I remained troubled by what had happened to me and the others at the residential schools, I tried to go on with my life and in 1968 I began working as the Band

Administrator in my community. In 1969 the late Chief Dave Courchene and I, along with a few others, reestablished the provincial Association of Chiefs, which had disappeared in the mid-50's after being established to address proposed amendments to the *Indian Act*. I was on the provisional executive to revitalize the organization, which was renamed the Manitoba Indian Brotherhood ("MIB"). Chief Courchene became the President of the MIB in 1969 and I went to work for him in Winnipeg as his office manager until 1972.

22. I would often visit the nuns at the mother house and the priests and brothers at their retirement house, The Oblate Fathers retirement home, in Saint Boniface, and I still do. While visiting, I would look at the old pictures, and review many documents related to the residential schools. It was then that I became interested in pursuing my own research on the history of residential schools. In 1971, I conducted a research project with my then wife Janet Fontaine, and Professor George Lithman of the University of Manitoba, on the history of the Sagkeeng community, including the residential school. For this project, we interviewed many older people, collected many pictures, and spent a lot of time in the Manitoba archives.

23. In 1972 I returned to my community, and I was elected Chief for two consecutive terms. While I was Chief, we achieved many notable goals, including removing the Federal Indian Agent from Sagkeeng which allowed us to run the community ourselves. I also instigated and oversaw the establishment of Canada's first locally First Nation's controlled education system, one of the first First Nation's Child and Family Services, and the first on-reserve alcohol treatment centre. This was both a significant event from the perspective of setting a precedent for self-government but to me it was also enormously significant because of the residential school experience where I, my family and community experienced powerlessness and total control from outside our community and culture.

24. After finishing my mandate as Chief of Sagkeeng, I moved to the Yukon Territory to serve as the Regional Director for the Department of Indian Affairs with the Federal Government. I held this position for three years.

25. In 1980 I returned to Manitoba to complete my degree in Political Science at the University of Manitoba. After graduation, I worked for the Southeast Resource Development

Council as their Special Advisor. I then returned to the Federal Government as Deputy Federal Coordinator for the Native Economic Development Program, a national program with a mandate to revitalize First Nations economies.

26. I left the Federal Government in 1986 to become the Manitoba Regional Chief of the AFN. In 1989, I was elected to the first of three consecutive terms as the Grand Chief of the Assembly of Manitoba Chiefs, until 1997 when I became the National Chief of the AFN.

TAKING THE RESIDENTIAL SCHOOL ISSUE PUBLIC

27. Throughout these early years, the issue of residential schools was always present in the communities, but it was not a driving political issue. This began to change in approximately 1989 when I attended a national Chief's assembly in Whitehorse on the theme of our vision of the future. At this conference, when it was my time to speak, I said that I did not think that we could talk about our future in realistic terms unless we were able to deal with the legacy of residential schools. I received a mixed reaction, with some people saying that this was an inappropriate occasion to speak about residential schools, while others supported such a discussion including two women Chiefs who wept during my presentation.

28. After this conference, I was invited to a gathering of journalists in Toronto, and during this meeting I once again spoke of residential schools. I had already made plans to speak with Archbishop Hacault, of the St. Boniface Catholic Diocese upon my return to Manitoba as I believed that the Church had to acknowledge its responsibility for what had happened to us at the residential schools. I mentioned my plans at this meeting and when I returned to Manitoba, I received several telephone calls from journalists who were interested in writing about the residential school situation.

29. During this time, I had many meetings with members of the Church and I also became more public with the abuse that I and many other children had suffered while attending the schools. Some of us began to speak about the impact that several generations of the IRS policy had had on our culture, language, spirituality and identity as a people.

30. In early 1990, I had several interviews on national television and radio, including an interview presented by Peter Mansbridge and a live interview with Barbara Frum. These took place on October 30, 1990. Several of these interviews are still available in the Canadian Broadcasting Corporations ("CBC") archives on their website at www.archives.cbc.ca, including the two above mentioned interviews: Shocking testimony of sexual abuse - Phil Fontaine: Native diplomat and dealmaker - CBC Archives and Native leader charges church with abuse - A Lost Heritage: Canada's Residential Schools - CBC Archives.

31. The abuse I suffered at the schools is a very personal issue and as such it was very difficult for me to speak publicly about the residential schools, and also because previously I had only discussed it privately with family and friends. Although it was difficult to do, I hoped that by speaking publicly about my own experience and the legacy of the residential schools left with First Nations people, the issue would become one of national importance. I believe that I succeeded in accomplishing this goal.

32. After beginning to raise awareness about Indian Residential Schools and the terrible abuse that many of us suffered while attending, I also discovered how difficult my personal journey would be. The day after my initial interviews aired on CBC, I spoke at the University of Manitoba at a native studies class. I was unprepared for the response and questions I received from the audience, which included journalists. They repeatedly asked me questions about the sexual abuse I suffered. I was asked for salacious details about what was done to me and by whom and how often. I was not used to speaking about these personal and private details to strangers or in public and found it to be stressful and painful.

33. What happened to us in the residential schools had been kept so private that when it started to become public it also started to divide families and communities. In the past we had spoken of the residential schools, but it had been spoken of within our families and communities, and not to the world. I believe that at the time this started to become a national issue, some of my people were ready for this, but most were not. This was an extremely painful time for me and for many members of my family and community. I felt I was alone in the quest to bring this issue to the public. No one else was coming forward and many members of my family were opposed to my efforts.

34. Along with dealing with the consequences of my own abuse, I also carried a heavy responsibility for deciding how I could help my people during this difficult time. I felt very alone with this responsibility and the isolation was made worse by the fact that there was no guide for me to rely on. An issue of this magnitude, involving so many people over so many generations, had never before been addressed by the government, the churches, or the people of Canada. I did not know what to expect from them, or what was most needed by the former students. I believed there needed to be something on the public record; the IRS legacy needed to become a milestone in Canadian history. I also believed that as a part of any resolution, the First Nations required an apology, an acknowledgment of what had happened, a public inquiry or commission, and a means for our healing. This didn't happen for many years.

35. In 1991, I ran for National Chief of the AFN. I was unsuccessful this time, but in my campaign, I spoke about the impact of residential schools on our people. There was quite a bit of public interest being generated about residential schools, and the candidates were asked questions about it. After this election, I continued to be the Grand Chief of the Assembly of Manitoba Chiefs, and attended many conferences to speak about my residential school experiences and the resolution of the IRS legacy.

36. In 1991, the government appointed the *Royal Commission on Aboriginal People* ("RCAP"), which was co-chaired by George Erasmus and Justice Dussault. RCAP was born out of a time when the federation of Canada was under debate, after the demise of the Meech Lake Accord and the 1990 Oka crisis highlighted the tensions that existed between First Nations people and Canada.

37. RCAP was mandated to "investigate the evolution of the relationship among aboriginal peoples (Indian, Inuit and Métis), the Canadian government, and Canadian society as a whole. It should propose specific solutions, rooted in domestic and international experience, to the problems which have plagued those relationships and which confront aboriginal peoples today. The Commission should examine all issues which it deems to be relevant to any or all of the aboriginal peoples of Canada."

38. RCAP released a Report in 1996, which included a full chapter on residential schools. I made a presentation before the Commission when it was in my community, and addressed my thoughts and actions with respect to the issue of the abuses generally and also the abuses I experienced at the Fort Alexander Indian Residential School. In Chapter 10, Part IV of their Report, the Commission referred to the actions I had undertaken to have the legacy of residential schools addressed, by saying: "Women and men — like Phil Fontaine, the leader of the Assembly of Manitoba Chiefs, who attended the Fort Alexander school — went out on the limb to talk...because they wanted to make things better.[309] They did more than just talk, more than just speak their pain and anguish; they and their communities acted." A copy of Chapter 10 of the *Report of the Royal Commission on Aboriginal Peoples* is attached to this my Affidavit as **Exhibit "A"**.

39. With respect to the legacy of Indian Residential Schools, RCAP made numerous recommendations to Canada, including: the establishment of a library to house and archive information on residential schools, the taking of immediate steps to ensure that those suffering from the effects of physical, sexual and psychological abuse have access to appropriate methods of healing, and the initiation of a full public inquiry into the IRS policies and practices.

ACTIONS AS THE NATIONAL CHIEF OF THE ASSEMBLY OF FIRST NATIONS

MY FIRST TERM

40. I was elected to the position of National Chief of the AFN in 1997 for a three year term. As the National Chief, I outlined the elements of my ambition for the AFN to seek as part of a healing strategy for the IRS legacy, among other things, a full apology, an endowment fund, a language revival program, counseling for survivors, and community healing. I began to have detailed discussions with senior members and Ministers of the Federal Government about a resolution for the residential schools.

STATEMENT OF RECONCILIATION

41. In 1998 I initiated and led the negotiations with the Government of Canada to achieve the 1998 *Statement of Reconciliation* offered by Canada on January 7, 1998. At this

time I also negotiated the $350 million endowment to establish the Aboriginal Healing Foundation (the AHF) for the benefit of residential school survivors. Since 1998, the AHF's work has supported communities and addressed the tragic effects of the government's IRS policy on generations of First Nations peoples.

42. In the *Statement of Reconciliation*, the Government of Canada acknowledged and expressed regret for the harms caused in and through residential schools. The key statement on residential schools was as follows:

> "The Government of Canada acknowledges the role it played in the development and administration of these schools. Particularly to those individuals who experienced the tragedy of sexual and physical abuse at residential schools, and who have carried this burden believing that in some way they must be responsible, we wish to emphasize that what you experienced was not your fault and should never have happened. To those of you who suffered this tragedy at residential schools, we are deeply sorry."

43. Although I had sought a fuller apology and had tried to have it given by the Prime Minister at the time, I was told it would not be forthcoming from him. Instead, I accepted the apology by the Hon. Jane Stewart, Minister of Indian Affairs and Northern Development on behalf of the First Nations and praised the government's commitment to healing through the $350 million endowment it created for the AHF.

44. Throughout, I insisted that the Federal Government had a continuing responsibility to repair the damage done to Aboriginal Peoples through the destructive IRS policy and I continued my work addressing the unfinished aspects of dealing with the residential school legacy.

45. Attached hereto and marked as **Exhibit "B"** to this my Affidavit, is a copy of the *Statement of Reconciliation.*

46. The next thing I did was to initiate and participate in discussions and a dialogue process with several government officials, plaintiffs' lawyers, academics, mediators, church representatives and survivors to establish principles and guidelines for an out of court resolution process for victims of sexual and physical abuse in residential schools. This process, which

entailed meetings in several First Nations communities, resulted in a document entitled "*Guiding Principles for Working Together to Build Restoration and Reconciliation*" which sets out the fundamental principles agreed upon buy all stakeholders required for resolution and reconciliation of the residential school legacy. Attached hereto and marked as **Exhibit "C"** to this my Affidavit, is a copy of *Guiding Principles for Working Together to Build Restoration and Reconciliation.*

ABORIGINAL HEALING FOUNDATION

47. The AHF is an Aboriginal-run, not-for-profit corporation that provides financial support to community developed and led healing programs that address physical and sexual abuse, as well as the intergenerational aspects of the IRS legacy. As a term of the funding agreement with the Government of Canada, the original $350 million endowment was committed over a four year period. After that time, the AHF was to begin the process of dismantling its operations.

48. The AFN under my leadership, lobbied the government to extend the AHF mandate, and in February 2005 the government agreed to provide an additional $40 million to extend AHF's mandate. I believe that the continuation of the AHF will help to ensure that healing can begin within First Nations communities. I have supported the AHF since its inception, and for a time served on its' Board of Directors.

49. Also, through this settlement, Canada will provide the AHF with $125 million as an endowment to fund healing programs over a five year period to address the harms of the IRS legacy. In the fourth year, Canada will have an evaluation of the healing initiatives and programs undertaken by the AHF and recommend whether, and to what extent, funding should continue.

50. This settlement agreement also attempts to address the educational needs of Class Members, by providing for any excess monies allocated as the Designated Amount for individual lump sum payments under the amount of $40 million to be paid to the National Indian Brotherhood Trust Fund and the Inuvialuit Education Foundation for education programs and

services. If the excess of the Designated amount exceeds $40 million, each eligible recipient will be credited an amount up to $3,000 by way of personal credits to be used for educational programs and services. If there continues to be an excess amount after the personal credit amounts have been distributed, then this excess will be transferred to the National Indian Brotherhood Trust Fund and the Inuvialuit Education Fund.

ALTERNATIVE DISPUTE RESOLUTION

51. The AFN, under my leadership, realized that taking residential school claims through the courts could re-victimize former students and create an adversarial climate which was not conducive to healing and reconciliation. Accordingly, we continued discussions with the government officials to convince them to develop an ADR process that would achieve a better option for former students than the adversarial process of litigation. I also advocated for an alternative process because I believed that the loss of culture, language and spiritual values could not be addressed by the Court. I also knew that the Court could not provide the Truth and Reconciliation Commission, Commemoration and healing initiatives that we sought.

52. From these discussions, the federal government held a series of meetings across the country called "the Dialogues," which were designed to identify the operating principles and values for an ADR process. From the dialogues, the government eventually initiated 12 pilot projects as alternatives to the court process, some of which have just concluded. The results of these projects were mixed in terms of providing feasible alternatives.

IRS CLASS ACTIONS ACROSS CANADA

53. The IRS policy attempted to assimilate First Nations people into colonial Canadian culture by annihilating our languages, cultural traditions, spirituality and family and community relationships across many generations. Many of us who attended IRS were abused and betrayed on an individual level, but we were also abused as a people. Our children and grandchildren who did not attend at the schools continue to suffer from our residential school experiences, and I believe that many generations to come will bare the scars of the residential schools. Accordingly, I advocated for some form of a public inquiry so that the IRS experience would

become a part of the public record, a form of truth and reconciliation commission so that survivors and their families could tell their stories, a full apology, and the importance of healing initiatives.

54. Nonetheless, I understood that some people would support a different path, and while I had always advocated for other resolutions, I did what I could to help those who wanted to pursue litigation. The Cloud Class Action commenced in 1998 for the benefit of the former students of the Mohawk Institute Residential School in Ontario, and by 2000, several other class actions and hundreds of individual claims had been commenced across the country, including the Baxter Class Action. In approximately 2003, the Baxter Class Action became the National Class Action and thousands of individual claims were joined. Over the years, we have provided support and information to former students and their counsel involved in litigation, including: having updates on the different civil actions available on our website, listing all of the actions and the contact information for counsel, and attending numerous meetings throughout the years with lawyers from various class actions. We have provided information and met with counsel for the Cloud Class action, the Baxter National Class Action, the Dieter Class Action, the Pauchay National Class Action and the Straightnose Class Action.

THE INDIAN RESIDENTIAL SCHOOLS UNIT OF THE AFN

55. In 1998, under my leadership, the AFN established the Indian Residential Schools Unit ("IRSU"). The goal of this unit is to "influence the expedient settlement of the IRS claims by influencing proposed policy and judicial developments affecting former students". Within the unit, the members conduct research, analyze existing policies and inform First Nations people and communities about the options available to resolve IRS claims. Additionally, they support the development of a traditional healers programs, public education and awareness activities and facilitate commemoration initiatives.

56. The IRSU also provides information to former students to help them obtain their IRS records, maintains a voluntary contact information database of survivors, and provides information to survivors on the status of activities, settlement negotiations, civil actions and commemoration initiatives. Currently, there are approximately 17,500 former students

registered on the database, with more requests arriving daily. Each person on the database also receives our IRSU Newsletter and information bulletins as they become available.

57. I, and other members of the IRSU, have attended conferences, workshops, community meetings, and have presented at the majority of all regional and special Chief Assemblies on residential schools. I have also proactively addressed the related claw back issue through letters and meetings with Premiers across the country.

58. In 2000, after my first term as National Chief ended, I returned to Manitoba. I began doing consulting work for a number of communities and continued to develop my relationship with the Federal Government with respect to residential schools as well as other matters. Among other things, I worked to secure funding for projects such as the Aboriginal Healing Language Initiative, and for the residential school initiatives. I also organized survivor groups and participated in many meetings with survivors with respect to the establishment of a settlement process.

59. In 2001, I was appointed by the Federal Government as the Chief Commissioner of the Indian Claims Commission. In that position I worked to resolve outstanding land claims on behalf of First Nations, including the Kahkewistihaw's outstanding 1907 land claim. During this period I continued to support the residential school project including lending office space and my attendance at meetings to further the progress of settlement of the residential school legacy.

MY SECOND TERM AS NATIONAL CHIEF OF THE AFN

RE-EXAMINING THE ADR

60. I was re-elected National Chief of the AFN in July 2003, and I continue to hold this position today. After being elected I immediately began a series of meetings with the Department of Indian Schools Resolution Canada ("IRSRC") with respect to the ADR process that had been established to deal with claims of physical and sexual abuse. It was evident to me at the time that the ADR process was insufficient to achieve a fair and just result for the damage caused or begin to achieve reconciliation between Canada, non-Aboriginal Canadian citizens, the relevant

Churches and the First Nations. For example, I observed that there was no provision for a lump sum payment for loss of language and culture and loss of family life. I also observed that there were inequities in geography and religious affiliation. There were no provisions for truth commission or for healing for survivors and their families among other things.

61. From July 2003 to November 2003, I with other representatives of the AFN were involved in discussions with IRSRC, the federal government department mandated to specifically address residential school issues, with respect to an ADR process. We participated in several meetings, pointing out what we perceived to be problems with the ADR process and substance.

62. In November, 2003, the Government of Canada launched another alternative dispute resolution ("DR") plan to compensate residential school survivors, and to fulfill the recommendations of RCAP, and the *Statement of Reconciliation.*

63. This DR process was meant to be an alternative to litigation for survivors. I believe there were some positive aspects to the DR process including the idea of an out-of-court process to settle claims, the provision for Canada to pay a percentage of legal fees, and the provision of a commemoration fund; however, upon analysis and examining the experience of some claimants, it became obvious that our prior suggestions were not incorporated and that there were severe problems in the content and process of the ADR. The administrative costs of the program were over 3 times the amount of compensation awarded to the survivors. Also, contrary to the intention in developing an alternative process, I was told by former students and verily believe that the resulting process was unwieldy, and often made the survivors feel as if they were being attacked, disbelieved and re-victimized them.

64. In addition, the adherence to a strict tort model was insufficient to deal with the magnitude and systemic nature of the abuses and harms suffered by not only individuals but the entire community of First Nations peoples, especially with respect to the loss of language and culture and loss of family life.

THE ASSEMBLY OF FIRST NATIONS REPORT ON CANADA'S DISPUTE RESOLUTION PLAN TO COMPENSATE FOR ABUSES IN INDIAN RESIDENTIAL SCHOOLS (THE "AFN REPORT")

65. From November 2003, I and the AFN and our legal counsel continued to voice concerns with the shortcomings of the ADR process.

66. In discussions with former students who participated in the DR process and with Professor Kathleen Mahoney who was advising the AFN on the process, I was told and do believe that some of the major problems with the DR process were that it treated survivors unequally by compensating some for 100% of what the law entitled them to, and others for only 70%, depending on whether they attended a protestant or Catholic IRS. It also treated survivors differently based upon the province where the abuse took place. Further, it put more emphasis on the abusive acts and limited the acts that were compensable, rather than focusing on the consequences of the abuse. It also failed to address or compensate for the emotional abuse suffered, the loss of languages and family life, forced labor, and the loss of language, culture and spiritual guidance. It was also gender biased in that it failed to address harms unique to female victims of sexual abuse, it failed to compensate for student on student abuse and it failed to compensate for harms caused by adults at the schools who were present for reasons other than contact with children. No provision was made in the ADR for a truth commission or for the preservation and archiving of historical records and documentation regarding the residential school era. No provision was made for healing of the survivors.

67. In early 2004, I approved the support of the AFN to co-sponsor a conference at the University of Calgary Faculty of Law directed by Law Professor Kathleen Mahoney to professionally examine and evaluate the fairness of the existing ADR process and to comment on its potential to achieve reconciliation. The conference was attended by a wide variety of scholarly experts and professionals in Law, Psychology, Sociology, Native Studies, Anthropology, Theology and Political Science. It was also attended by AFN officials, numerous survivors of Indian Residential Schools and some representative survivors of the Irish Industrial Schools and the Japanese internment during World War II and relevant Church representatives. Government officials attended as well, including the Deputy Minister Mario Dion and the Minister in charge of residential schools at the time, the Hon. Dennis Coderre.

68. The overwhelming conclusion of the conference was that the DR process was flawed and that changes had to be made. At the Conference, I proposed to Deputy Minister Dion that the AFN, with the financial support of the IRSRC, strike a task force of nationally and internationally recognized experts to examine the current DR process in light of the findings at the Conference, and develop appropriate, practical, reasonable, and fair recommendations that would lead to the wider acceptance of the DR process by survivors. Mr. Dion agreed.

69. The AFN, in conjunction with national and international experts, undertook a comprehensive study to determine what practical and reasonable changes could be made to the DR plan in order to make it more acceptable and accessible to survivors, and help to achieve the final goal of fair and just compensation with reconciliation.

70. The result of the subsequent expert deliberations over the summer of 2004 was the authorship of a report by Professor Mahoney entitled, "*Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools*" (hereinafter the "AFN Report"). It was tabled at a Special Assembly of Chiefs in November of 2004, resulting in their unanimous approval of its contents and their unanimous direction to move forward with its implementation through negotiations with the federal government.

71. The AFN Report included many recommendations on improving the DR process, and identified items that should be included in a settlement package with the former students of IRS. Attached as **Exhibit "D"** to this my Affidavit is a copy of *The Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools.*

72. The AFN Report suggested, among other things, an approach which gave more choice to survivors, ways to expedite and settle claims, more accurate and reflective methods of calculating compensation, which would lead to a more just, fair and mutually beneficial result for survivors, the churches and Canada.

73. In its report, the AFN recommended that the DR process use a two-pronged approach: one prong for fair and reasonable compensation, and the other for truth-telling, healing public education, and commemoration.

74. The AFN Report also made many key recommendations, including the following:

(a) a significant lump sum award be granted to any person who attended, to compensate for the loss of language and culture, irrespective of whether they also suffered sexual, physical or emotional abuse. Every survivor would receive the same base amount of $10,000 for the loss of language and culture, and no hearing would be required as payment would be calculated based upon school records. The second portion of the lump sum would be $3,000, awarded for each additional year or part year in attendance;

(b) compensation must be awarded for emotional abuse, as well as physical and sexual abuse. Also, gender differences must be accounted for in the calculation of compensation;

(c) consequences of abuse must be weighed more heavily than the acts of abuse. Both the acts and consequences of the abuse must be judged by today's standards;

(d) there must be equality among survivors in the calculation of compensation, regardless of where the abuse took place or which church operated the school;

(e) survivors who are 60 years or older or who are seriously ill must have their claims expedited and have access to interim payments if they present a prima facie case for compensation;

(f) the compensation plan must be together with, and part of, a larger healing plan which includes a voluntary truth-sharing and reconciliation process designed to investigate the nature, causes, context and consequences of all the harms

resulting from the residential schools legacy. This should include, but not be limited to, harms to individual survivors, First Nations communities, survivors' families, the future generations, culture, spirituality, language and relationships between and among all parties involved;

(g) the truth-sharing, healing and reconciliation process designed by local and regional stakeholders must be accessible to survivors and their families. Counselling support must be provided before, during, and after the DR and the truth-sharing process;

(h) that fault and legal causation should be non-rebuttable presumptions, and this be expressly stated to the adjudicators and the survivors; accordingly, once a claimant proves acts of sexual or physical abuse and their injurious consequences, he or she should receive compensation;

(i) that Canada accept 100% vicarious liability for the physical, sexual or severe emotional abuse of a residential school survivor by a third party permitted on the school premises for any reason;

(j) that all efforts be made to simplify the process and settle the claims without a hearing; and,

(k) the healing process must be linked to the continuation of the AHF.

75. I am very proud that the recommendations from the AFN's Report formed the basis of the May 30, 2005 *Political Agreement*, the *Agreement in Principle* and the *Final Settlement Agreement.*

THE POLITICAL AGREEMENT

76. In January 2005, I oversaw the formation of a negotiating team and gave instructions to commence discussions and negotiations on behalf of the AFN, with government officials on

the AFN Report. Such discussions and negotiations proceeded on a regular, intensive basis, until May 30, 2005 at the signing of the *Political Agreement.* Attached hereto and marked as **Exhibit "E"** is a copy of the *Political Agreement.*

77. Throughout this time period, I also continued to speak and advocate for a resolution to the IRS legacy. I met with former students from communities across the country. I spoke publicly against the IRSRC decision to engage private investigators to investigate "persons of interest" as identified in individual claims, as I believed that this was an adversarial approach that ran contrary to the idea of truth and reconciliation. I also spoke at the Standing Committee for Aboriginal Affairs in February, 2005, in which I expressed my sadness at the lack of resolution to the IRS legacy, and the alternative that the AFN had provided in the AFN Report.

78. On May 30, 2005, the Deputy Prime Minister of Canada, Anne McLellan and I signed the *Political Agreement.* The *Political Agreement* was the result of many meetings held between the fall of 2003 to May 30, 2004 between the AFN lawyers and officials and government representatives. These meetings were based upon the AFN Report's recommendations for an improved ADR, a lump sum payment and a truth and reconciliation process.

79. Pursuant to the *Political Agreement,* the Honourable Frank Iacobucci was appointed as the Federal Government's representative to negotiate with all the relevant parties a final settlement package to recommend to the Federal Government Cabinet by March 31, 2006. I met with Mr. Iacobucci immediately after his appointment and arranged for a suitable traditional ceremony to commemorate his appointment which he attended at the Treaty Island Roundhouse situated at the Rat Portage First Nation in the vicinity of Kenora, Ontario.

NEGOTIATIONS FOR A FINAL SETTLEMENT AGREEMENT

80. In keeping with the terms of the *Political Agreement,* any final settlement package negotiated was to include compensation for all former students of IRS, a truth and reconciliation process, community based healing, commemoration, an appropriate dispute resolution process to address issues of physical, sexual and psychological abuse, and compensation for legal fees.

81. The AFN subsequently sought intervener status in order to participate at the negotiating table to ensure that our continued key and central role in the settlement negotiations would continue.

82. Subsequently, in order to ensure full status at the negotiating table, and with a clear mandate from the Chiefs, I then instructed counsel to commence a class action claim against the government on behalf of myself, all IRS former students and the AFN, to ensure that former students and the AFN continued to play a key and central role in the resolution discussions in every respect consistent with the AFN Report and the *Political Agreement.*

83. In addition to instructing counsel with respect to the class action proceedings and attending most of the negotiating sessions at both tables, I continued to negotiate a nation to nation resolution of the IRS legacy at the political level with Cabinet ministers and senior government officials including with Minister Andy Scott, Minister Anne McClelland, Minister Irwin Cotler and Minister Ralph Goodale. I also had discussions with officials in the Prime Minister's office and with Prime Minister Paul Martin about the residential school settlement. The totality of these negotiations culminated in an *Agreement in Principle* being reached on November 20, 2005.

84. I believe that recommendations of the AFN Report and the provisions in the *Political Agreement* have for the most part been realized with the settlement package currently before this Honourable Court. The settlement package includes: compensation payments to all individual former students, as set out in the AFN Report; payment of fair and reasonable legal fees; early payments for the elderly; the development of a truth and reconciliation process, commemoration, healing and education elements, and significant substantive and procedural improvements to the alternative dispute resolution process.

THE AFN'S ONGOING COMMITMENT TO ADDRESS THE LEGACY OF INDIAN RESIDENTIAL SCHOOLS

85. The AFN has a long and dedicated history of attempting to negotiate a nation to nation resolution to the IRS legacy. I and the AFN have worked for years to bring the issue of

residential schools to the attention of the public the Federal Government and the churches, so that the historical wrongs perpetrated against First Nations peoples were addressed and there could be reconciliation and healing.

86. I firmly believe that much of the dysfunction in First Nations communities and families, including inordinately high rates of incarceration, youth suicide, drug and alcohol abuse, health problems, poverty and social exclusion are related to the residential school legacy. I am also of the firm belief that without a holistic resolution to the IRS legacy the problems will continue unabated.

87. Since 1990, the AFN has passed internal resolutions, undertaken public education campaigns, lobbied government for political action, and developed and implemented various programs and policies focused on the health and healing of residential school survivors, families and communities, all in an attempt to bring about a resolution to the IRS legacy.

88. Over the years, the AFN's Chiefs have passed many resolutions calling for the Federal Government to address the historical effects of the IRS policy, including the following:

(a) Resolution No. 25/90, Adopted December 11, 1990: "Redress and Harms Inflicted upon First Nations by the Residential Schools Policy". This resolution called for an apology and compensation for damage done to Aboriginal languages and cultures by the residential schools policy. It also called for compensation for those who endured physical, sexual and psychological abuse; some form of compensation and a full range of services to families, communities and others affected by the abuse; and called upon the government to establish a mechanism to record fully and publicly the residential schools policy and its effects on all Aboriginal peoples.

(b) Resolution No. 23/92, Adopted June 24, 1992: "Resolution No. 25/90 – Redress for the Harms Inflicted by the Residential School Policy". This resolution cites resolution No. 25/90, and calls for the implementation of a three-part strategy as follows:

(i) the development of a national framework to enhance the provision of appropriate healing processes for residential schools survivors of abuse;

(ii) the implementation of a process through which the abuse experienced by former residential schools students can be documented in a historical record; and,

(iii) the establishment of a compensation mechanism that includes the need to rebuild and repair personal, cultural and linguistic capacities arising from wrongs caused by the residential school system.

(c) Resolution No. 1/98, Adopted on March 10, 1998: "Healing Strategy". This resolution clearly recognizes the role of the AFN Executive Council/ National Chief Phil Fontaine in obtaining the Statement of Reconciliation and subsequent Healing Strategy, including the $350 million for community healing, and states that the $350 million healing fund is a gesture of good faith (a first step) in beginning the process of reconciliation and healing in addressing the legacy of residential school.

Attached hereto and marked as **Exhibit "F"** to this my Affidavit are copies of these resolutions.

89. Beginning with the Resolution No. 25/90, the message of Chiefs from First Nations across the country has been clear: any action taken by the government on behalf of residential schools survivors must also take into account the loss of language and culture, the intergenerational impacts of the IRS legacy, the need for direct involvement of survivors as the basis of any process, the need for a holistic approach, and the understanding that healing and reconciliation will occur if these principles are accepted by the government and adequate funds are provided to support these areas of concern.

90. The AFN has been actively involved in bringing the history of residential schools to light, and seeking redress and rehabilitation for residential school survivors in both the political and public spheres. The results of the AFN's activities can be seen in a myriad of political actions and governmental initiatives including the following:

(a) The establishment of RCAP in 1991, its consultation and research and the final report issues in 1996 .

(b) The Government of Canada's *Statement of Reconciliation*, which was issued in January 1998, along with the announcement of "Gathering Strength, Canada's Aboriginal Action Plan."

(c) The establishment of the Aboriginal Healing Foundation, which was created on March 31, 1998 to manage the $350 million committed by the Government of Canada for healing.

(d) The AFN Report, produced in November 2004, which makes recommendations to enhance and reach a final resolution for all parties and addresses the strengths and failings of the government's DR process;

(e) The *Political Agreement*, signed by myself and the Federal Government on May 30, 2005, announced the commencement of the settlement negotiations with the Honourable Frank Iacobucci and consists of the key recommendations from the AFN Report; and

(f) The AFN has consistently met with government officials, class action counsel, former students, and legislative bodies to ensure that an appropriate resolution to the IRS legacy is reached

91. The AFN's continuing efforts to bring the history of the IRS to the attention of the First Nations and to the forefront of the political agenda has involved innumerable meetings with

government, political and church representatives, individual survivors, band councils, communities and members of the general public. These meetings include the following:

(a) September 1998 – June 1999 – Cross-Canada Dialogues: This series of dialogues followed many years of effort by Aboriginal people to bring this issue to the national agenda and occurred in the context of Canada's Statement of Reconciliation and the issuance of apologies by several Church denominations. They explored ways to respond to the impacts of residential schools by bringing together survivors, Aboriginal healers and leaders, legal counsel, church leaders and senior government officials to consider the impacts of the residential school experience and explore the use of alternatives to the court process in the settlement of residential school abuse claims. At the conclusion of the regional dialogues, a final national dialogue was held that developed actual models and approaches to residential school dispute resolution. This dialogue process resulted in an intense interest across the country to develop a resolution process with full and equal survivor participation, and designed to promote better long-term outcomes for all those involved.

(b) March 1999 – ADR Pilot Projects: The Department of Justice ("DOJ"), in conjunction with Indian and Northern Affairs Canada ("INAC") tested, through the use of 17 pilot projects, the potential for using alternate dispute resolution mechanisms to manage litigation and resolve cases of abuse at residential schools that otherwise would have been litigated in the courts. The impetus to have these pilot projects was, in part, due to the work and partnership building accomplished at the dialogues held between September 1998 and June 1999.

(c) March 2000 – Publication of the Cross-Canada Dialogue Findings in the Report "Reconciliation and Healing: Alternative Resolution Strategies for Dealing with Residential School Claims": This report publicized the results of the cross-Canada dialogues, including the emergent guiding principles

which developed to assist communities on how to create effective and inclusive processes.

(d) November 2004 – Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools: The AFN, in conjunction with national and international experts, undertook a comprehensive study to determine what practical and reasonable changes could be made to the Dispute Resolution process in order to make it more acceptable and accessible to survivors, and help to achieve the final goal of fair and just compensation with reconciliation. A Project Director, Professor Kathleen Mahoney, assembled a task force of experts in May and June 2004, and based on the findings and research, wrote the comprehensive report, as referred to earlier herein, tabled and presented to Canada in November 2004.

(e) July 2005 – Assembly of First Nations National Residential Schools Conference: In July 2005, the AFN organized a conference in Vancouver, British Columbia, attended by approximately 1200 survivors, which I attended. While at the conference, the role the AFN has played in bringing the IRS legacy to public attention, as well as its' role in bringing it to a resolution was discussed. The AFN also structured the conference to obtain maximum input from survivors on the settlement negotiation position. Attached hereto and marked as **Exhibit "G"** is a copy of the Final Conference Report.

(f) The AFN has consistently maintained communication with individual former students and communities on all activities related to the resolution of the IRS legacy. The AFN has ensured this flow of information through the following:

(i) the formation of the Indian Residential Schools Unit at the AFN;

(ii) countless community meetings with thousands of former students and their families, Attached hereto as **Exhibit "H"** is a schedule of

residential school conferences and meetings attended by the IRSU from May 1, 2004 to December 31, 2004;

(iii) the production of the newsletter *"Canada's Residential School Aboriginal Survivor Series"*;

(iv) Various updates and informational bulletins on the process towards reconciliation, distributed to communities through the AFN regional offices;

(v) the development of an information database for former students; and

(vi) information postings and updates on the AFN website, at www.afn.ca.

I AM PREPARED TO ACT AS REPRESENTATIVE PLAINTIFF OF THE SURVIVOR CLASS AND THE DECEASED CLASS

92. I am prepared to act as representative plaintiff of the Survivor Class and the Deceased Class in relation to the class action claim before this Honourable Court.

93. I will fairly and adequately represent the interests of the Survivor Class and Deceased Class should this Court appoint me as representative plaintiff. I appreciate that my role is to protect the interests of the Survivor Class and Deceased Class.

94. I believe that the government of Canada has breached its duty to me and to the Survivor Class through its administration of the IRS and in respect of its policy in relation to same and that, as a result, I, and the Survivor Class are entitled to compensation.

95. I believe that the government of Canada has breached its duty to the Deceased Class through its administration of the IRS. Even though the Deceased Class will not be entitled to individual compensation, this settlement is fair to the members of this Class because of its emphasis on healing, commemoration and truth and reconciliation initiatives. These initiatives represent a $205 million ($205,000,000.00) contribution through the Settlement Agreement,

including a $125 million endowment to healing through the AHF, $60 million to towards the establishment of a Truth and Reconciliation Commission, and $20 million towards Commemoration Funding. This money does not include the amounts payable to the Survivor Class members through the Common Experience Payment or through the Independent Assessment Process, nor does it include the amount to be contributed by the Churches for use in healing and reconciliation initiatives, which is expected to reach approximately $100,000,000.00.

96. The interests of Deceased Class members are further protected in the Settlement Agreement because individual members can opt out of the Agreement through their estate administrators or trustees.

97. I understand that the major steps in the class action can be summarized as follows:

(a) the action was started by the issuance of the statement of claim. That claim will be restated in an amended statement of claim("Master Claim");

(b) I am now asking the Court to certify the action as a class proceeding by this motion for certification;

(c) if the Court certifies the action as a class proceeding, the certification notice will be sent to Survivor Class Members who will be given the opportunity to opt out of the class action if they wish within a fixed period;

(d) at the same time, the Court will be asked to approve the proposed settlement;

(e) Survivor Class Members will have the right to object to the proposed settlement;

(f) if the proposed settlement is approved by the Court, Survivor Class Members who do not opt out will receive the benefits set out in the settlement agreement;

(g) in the event that Survivor Class members wish to make an additional claim, there is an opportunity through this settlement to participate in further hearings if necessary to prove or assess damages;

(h) appeals of decisions may be taken at various stages of the settlement; and

(i) the Court will supervise the execution and administration of the settlement.

98. I also understand that, in agreeing to seek and accept an appointment as a representative plaintiff, it is my responsibility, among other things, to be familiar with this action, and:

(a) to review the Master Claim and any further amendments;

(b) to assist in the preparation and execution of an affidavit such as this one in support of the motion for certification and settlement approval;

(c) to attend, if necessary, with Class Counsel for cross examination on my affidavit;

(d) to attend with Class Counsel at the settlement approval hearing and give evidence regarding the case, if necessary;

(e) to receive briefings from and to instruct Class Counsel;

(f) to seek the court's approval of agreements respecting Class Counsel's fees and disbursements; and

(g) to communicate with Survivor Class Members throughout and through our counsel, as required.

99. To date, the following are some of the steps I have taken to fairly and adequately represent the Survivor and Deceased Class Members:

(a) I retained and instructed Class Counsel to commence this class proceeding;

(b) negotiated and executed an agreement respecting Class Counsel's fees and disbursements;

(c) discussed with Class Counsel the nature of this class action, including the risks and costs of same;

(d) assisted in drafting the statement of claim;

(e) obtained documents and other information at the request of Class Counsel;

(f) met with Class Counsel on numerous occasions;

(g) approved the participation of Class Counsel as co-counsel in this class proceeding;

(h) instructed Class Counsel, as necessary; and

(i) attended negotiations with federal representatives, lawyers and churches on compensation; and

(j) co-chaired negotiations on the Truth and Reconciliation Commission.

IDENTIFIABLE CLASS

100. I have reviewed the Master Claim. In my view, the class definition for the Survivor Class should be: All persons who attended at a Residential School in Canada between January 1, 1920 and December 31, 1997, who are living, or who were living as of May 30, 2005, and who, as of the date hereof, or who at the date of death resided in:

i. Alberta, for the purposes of the Alberta Court of Queen's Bench;

ii. British Columbia, for the purposes of the British Columbia Supreme Court;

iii. Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

iv. Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories;

v. Nunavut, for the purposes of the Nunavut Court of Justice; and

vi. Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any placed outside of Canada, for the purposes of the Ontario Superior Court of Justice;

vii. Quebec, for the purposes of the Quebec Superior Court;

viii. Saskatchewan, for the purposes of the Court of Queen's Bench for Saskatchewan;

ix. Yukon, for the purposes of Supreme Court of the Yukon Territory;

But excepting Excluded Persons.

101. I believe that this definition is an objective definition and the Survivor Class Members, upon receiving or reading the certification notice, will easily be able to determine whether or not they qualify as a Survivor Class Member.

102. Further, in my view, the class definition for the Deceased Class should be: All persons who attended at a Residential School in Canada between 1920 and 1997, who died before May 30, 2005, and who were, at their date of death, residents of:

x. Alberta, for the purposes of the Alberta Court of Queen's Bench;

xi. British Columbia, for the purposes of the British Columbia Supreme Court;

xii. Manitoba, for the purposes of the Manitoba Court of Queen's Bench;

xiii. Northwest Territories, for the purposes of the Supreme Court of the Northwest Territories;

xiv. Nunavut, for the purposes of the Nunavut Court of Justice; and

xv. Ontario, Prince Edward Island, Newfoundland, and Labrador, New Brunswick, Nova Scotia and any placed outside of Canada, for the purposes of the Ontario Superior Court of Justice;

xvi. Quebec, for the purposes of the Quebec Superior Court;

xvii. Saskatchewan, for the purposes of the Court of Queen's Bench for Saskatchewan;

xviii. Yukon, for the purposes of Supreme Court of the Yukon Territory;

but excepting Excluded Persons.

POPULATION OF CLASS

103. The size of the Survivor Class is estimated to be 78,994. This estimate was prepared by an independent firm, Siggner & Associates Inc., as part of the information gathering in the negotiating process.

COMMON ISSUES

104. The proposed common issues are set out as follows (the "Common Issues").

(a) By their operation or management of IRS during the Class Period (1920 to 1996), did the Defendants breach a duty of care they owed to the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?

(b) By their purpose, operation or management of IRS during the Class Period, did the Defendants breach a fiduciary duty they owed to the Survivor Class and the Deceased Class or the aboriginal or treaty rights of the Survivor Class and the Deceased Class to protect them from actionable physical or mental harm?

(c) By their purpose, operation or management of IRS during the Class Period, did the Defendants breach a fiduciary duty they owed to the Family Class?

(d) If the answer to any of these common issues is yes, can the court make an aggregate assessment of the damages suffered by all Class members of each class as part of the common trial?

105. I have reviewed the Common Issues and, I understand and believe that the Common Issues listed are issues that would need to be addressed by virtually every individual Survivor Class Member if this matter did not proceed by way of a class action and that a resolution of these Common Issues will significantly advance this litigation.

PREFERABLE PROCEDURE

106. I believe that a class action is the preferable procedure to resolve the Common Issues.

107. The class action will provide access to justice for myself and other Survivor Class Members. I am aware that many Aboriginal Persons live in remote communities, are not in a position to retain counsel due to geographic, logistic and financial reasons, suffer from psychological and emotional problems often as a result of their residential school experiences, which included various forms of institutional child abuse, and suffer from poverty and often

from substance abuse. I believe that thousands of residential school survivors and their families would not be able to advance their legal rights without this class action.

FAIR AND ADEQUATE REPRESENTATION

108. I believe that I can fairly and adequately represent the interests of the Survivor Class and the Deceased Class and I am committed to fulfilling my responsibilities as a representative plaintiff.

THE PROPOSED SETTLEMENT

109. I believe that this settlement package is beneficial to the Survivor Class, because it includes not only fair compensation for the time spent at residential schools, but it also includes a more accessible process for survivors to address the abuse they suffered at IRS.

110. It also includes a truth and reconciliation aspect, as well as a commemorative aspect, both of which are necessary to ensure that the issue of residential schools becomes a part of the public record in Canada, and that its legacy is never repeated.

111. This settlement package also includes a significant amount of money to be put towards reconciliation and healing programs, and ensures the continuation of the AHF.

112. Members of the Deceased Class still receive a benefit from this settlement through the significant commemoration and truth and reconciliation initiatives that will be undertaken. These initiatives are the foundation of the settlement package, and will ensure that the stories of deceased former students can be told and remembered in future generations.

113. I swear this affidavit in support of the motion before these courts for certification and settlement approval of the Settlement Agreement for these class proceedings.

SWORN BEFORE ME at the City of)
in the Province of Ontario, this 28th day of)
, 2006.)

A NOTARY PUBLIC in and for the)
Province of)

Larry Philip Fontaine

This is Exhibit "A"
to the Affidavit of Larry Philip Fontaine
Sworn in Ontario 2006 July 28, 2006

Commissioner for taking affidavits

Volume 1 - Looking Forward Looking Back
PART TWO False Assumptions and a Failed Relationship
Chapter 10 - Residential Schools

10

Residential Schools

IN THE FIRST FEW DECADES of the life of the new Canadian nation, when the government turned to address the constitutional responsibility for Indians and their lands assigned by the *Constitution Act, 1867*, it adopted a policy of assimilation[1]. As described in the previous chapter, the roots of this policy were in the pre-Confederation period. It was a policy designed to move communities, and eventually all Aboriginal peoples, from their helpless 'savage' state to one of self-reliant 'civilization' and thus to make in Canada but one community — a non-Aboriginal, Christian one.[2]

Of all the steps taken to achieve that goal, none was more obviously a creature of Canada's paternalism toward Aboriginal people, its civilizing strategy and its stern assimilative determination than education. In the mind of Duncan CampbellScott, the most influential senior official in the department of Indian affairs in the first three decades of the twentieth century, education was "by far the most important of the many subdivisions of the most complicated Indian problem". [3] As a potential solution to that 'problem', education held the greatest promise. It would, the minister of Indian affairs, Frank Oliver, predicted in 1908, "elevate the Indian from his condition of savagery" and "make him a self-supporting member of the state, and eventually a citizen in good staning." [4]

It was not, however, just any model of education that carried such promise. In 1879, Sir John A. Macdonald's government, pressured by the Catholic and Methodist churches to fulfil the education clauses of the recently negotiated western treaties,[5] had assigned Nicholas Flood Davin the task of reporting "on the working of Industrial Schools...in the United States and on the advisability of establishing similar institutions in the North-West Territories of the Dominion." Having toured U.S. schools and consulted with the U.S. commissioner of Indian affairs and "the leading men, clerical and *lay who could speak with authority on the subject" in western* Canada, Davin called for the "application of the principle of industrial boarding schools" — off-reserve schools that would teach the arts, crafts and industrial skills of a modern economy. Children,

he advised, should be removed from their homes, as "the influence of the wigwam was stronger than that of the [day] school", and be "kept constantly within the circle of civilized conditions" — the residential school — where they would receive the "care of a mother" and an education that would fit them for a life in a modernizing Canada.[6]

Davin's report received the unqualified support of the churches and the department, with the latter going so far as to suggest that within the wide range of assimilative policies, it would be through residential education, more than any other method, that "the solution of that problem, designated 'the Indian question' would probably be effected...".[7]

Politician, civil servant and, perhaps most critically, priest and parson all felt that in developing the residential school system they were responding not only to a constitutional but to a Christian "obligation to our Indian brethren" that could be discharged only "through the medium of the children" and "therefore education must be given the foremost place".[8]

At the same moment, however, they were driven by more prosaic motives. Macdonald's deputy superintendent general of Indian affairs, L. Vankoughnet, assured him that Indian expenditures were "a good investment", for in due course Aboriginal people, "instead of being supported from the revenue of the country...would contribute largely to the same."[9]

The socializing power of education had a similarly self-serving utility. Schools were part of a network of institutions that were to minister to industrial society's need for order, lawfulness, labour and security of property.[10] Scott admitted frankly that the provision of education to Indian communities was indispensable, for without it and "with neglect", they "would produce an undesirable and often dangerous element in society."[11]

Residential schools were more than a component in the apparatus of social construction and control. They were part of the process of nation building and the concomitant marginalization of Aboriginal communities. The department's inspector of education wrote in 1900 that the education of Aboriginal people in frontier districts was an important consideration, not only as an economical measure to be demanded for the welfare of the country and the Indians, themselves, but in order that crime may not spring up and peaceful conditions be disturbed as that element which is the forerunner and companion of civilization penetrates the country and comes into close contact with the natives. That benefit will accrue to both the industrial occupants of the country covered by treaty and to the Indians by weaning a number from the chase and inclining them to industrial pursuits is patent to those who see [that] a growing need of intelligent labour must occur as development takes place.[12]

The Aboriginal leader George Manuel, a residential school graduate, was rather more blunt. The schools, he wrote,

were the laboratory and production line of the colonial system...the

colonial system that was designed to make room for European expansion into a vast empty wilderness needed an Indian population that it could describe as lazy and shiftless...the colonial system required such an Indian for casual labour...[13]

Selfless Christian duty and self-interested statecraft were the foundations of the residential school system. The edifice itself was erected by a church/government partnership that would manage the system jointly until 1969. In this task the churches — Anglican, Catholic, Methodist and Presbyterian — led the way. Indeed, their energetic proselytizing resulted in the opening of residential schools in Ontario, the north-west and British Columbia even before the Davin report was submitted in 1879. Thereafter, the system — a combination of boarding schools built close to or in reserve communities and Davin's centrally located industrial schools — was expanded rapidly, reaching a high point with 80 schools in 1931 (see Table 10.1) and growing again in the 1950s as part of the nation's post-war expansion into Inuit homelands. It was maintained until the mid-1980s. Schools were built in every province and territory except Prince Edward Island, New Brunswick and Newfoundland.[14] They registered children from every Aboriginal culture — Indian, Inuit, and Métis children too — though the federal government assumed no constitutional responsibility for Métis people.[15] While Métis children would be invisible, rarely mentioned in the records, they were nevertheless there and were treated the same as all the children were.

TABLE 10.1
Residential Schools, 1931

Nova Scotia	Shubenacadie (RC)		
Ontario	Albany Mission (RC)	Cecilia Jeffrey (PR)	Chapleau (CE)
	Fort Frances (RC)	Fort William (RC)	Kenora (RC)
	McIntosh (RC)	Mohawk (CE)	Moose Fort (CE)
	Mount Elgin (UC)	Shingwauk Home (CE)	Sioux Lookout (CE)
	Spanish (RC)		
Manitoba	Birtle (PR)	Brandon (UC)	Cross Lake (RC)
	Elkhorn (CE)	Fort Alexander (RC)	MacKay (CE)
	Norway House (UC)	Pine Creek (RC)	Portage la Prairie (UC)
	Sandy Bay (RC)		
Saskatchewan	Beauval (RC)	Cowessess (RC)	Duck Lake (RC)
	File Hills (UC)	Gordon's (CE)	Guy (RC)
	Lac La Ronge (CE)	Muscowequan (RC)	Onion Lake (CE)
	Onion Lake (RC)	Qu'Appelle (RC)	Round Lake (UC)
	St. Phillips (RC)	Thunderchild (RC)	
Alberta	Blood (RC)	Blue Quills (RC)	Crowfoot (RC)
	Edmonton (UC)	Ermineskins (RC)	Holy Angels (RC)
	Lesser Slave Lake		

	(CE)	Morley (UC)	Old Sun's (CE)
	St. Albert (RC)	St. Bernard (RC)	St. Bruno (RC)
	St. Cyprian (CE)	St. Paul's (CE)	Sacred Heart (RC)
	Sturgeon Lake (RC)	Vermilion (RC)	Wabasca (CE)
	Wabasca (RC)	Whitefish Lake (CE)	
Northwest Territories	Aklavik (RC)	Fort Resolution (RC)	Hay River (CE))
	Providence Mission (RC)		
British Columbia	Ahousaht (UC)	Alberni (UC)	Alert Bay (CE)
	Cariboo (RC)	Christie (RC)	Coqualeetza (UC)
	Kamloops (RC)	Kitamaat (UC)	Kootenay (RC)
	Kuper Island (RC)	Lejac (RC)	Port Simpson (UC)
	St. George's (CE)	St. Mary's Mission (RC)	Sechelt (RC)
	Squamish (RC)		
Yukon	Carcross (CE)	St. Paul's Hostel (CE)	

In 1931 there were 44 Roman Catholic (RC), 21 Church of England (CE), 13 United Church (UC) and 2 Presbyterian (PR) schools. These proportions among the denominations were constant throughout the history of the system.

In Quebec two schools, Fort George (RC) and Fort George (CE), were opened before the Second World War. Four more were added after the war: Amos, Pointe Bleue, Sept-Îles and La Tuque.

Put simply, the residential school system was an attempt by successive governments to determine the fate of Aboriginal people in Canada by appropriating and reshaping their future in the form of thousands of children who were removed from their homes and communities and placed in the care of strangers. Those strangers, the teachers and staff, were, according to Hayter Reed, a senior member of the department in the 1890s, to employ "every effort...against anything calculated to keep fresh in the memories of the children habits and associations which it is one of the main objects of industrial education to obliterate."[16] Marching out from the schools, the children, effectively re-socialized, imbued with the values of European culture, would be the vanguard of a magnificent metamorphosis: the 'savage' was to be made 'civilized', made fit to take up the privileges and responsibilities of citizenship.

Tragically, the future that was created is now a lamentable heritage for those children and the generations that came after, for Aboriginal communities and, indeed, for all Canadians. The school system's concerted campaign "to obliterate" those "habits and associations", Aboriginal languages, traditions and beliefs, and its vision of radical re-socialization, were compounded by mismanagement and underfunding, the provision of inferior educational services and the woeful mistreatment, neglect and abuse of many children — facts that were known to the department and the churches throughout the history of the school system.

In the course of that history there were those who understood that such a terrible legacy was being created. In 1943, R. Hoey, the department's superintendent of welfare and training, on receiving from the principal of St. George's School (located on the Fraser River, just north of Lyttons, B.C.) a set of shackles that had been used routinely "to chain runaways to the bed" and reports of other abuses at the school, wrote, "I can understand now why there appears to be such a widespread prejudice on the part of the Indians against residential schools. Such memories do not fade out of the human consciousness very rapidly."[17] Nevertheless, with very few exceptions, neither senior departmental officials nor churchmen nor members of Parliament raised their voices against the assumptions that underlay the system or its abusive character. And, of course, the memory did not and has not faded. It has persisted, festered and become a sorrowful monument, still casting a deep shadow over the lives of many Aboriginal people and communities and over the possibility of a new relationship between Aboriginal and non-Aboriginal Canadians.

1. The Vision and Policies of Residential School Education

1.1 The Vision

...it is to the young that we must look for a complete change of condition.[18]

The tragic legacy of residential education began in the late nineteenth century with a three-part vision of education in the service of assimilation. It included, first, a justification for removing children from their communities and disrupting Aboriginal families; second, a precise pedagogy for re-socializing children in the schools; and third, schemes for integrating graduates into the non-Aboriginal world.

The vision sprang from and was shaped and sustained by the representations of departmental officials and churchmen of the character, circumstances and destiny of the nation's Aboriginal population. For such social reformers in Canada, and indeed throughout the world of European empires, the contact between expansive and 'mature' non-Aboriginal culture and indigenous cultures in their 'infancy' imperilled the survival of Aboriginal peoples. According to an 1886 report from the department's inspector of schools for the north-west, for example, resource development and settlement had prevented Indian communities from following that course of evolution which has produced from the barbarian of the past the civilized man of today. It is not possible for him to be allowed slowly to pass through successive stages, from pastoral to an agricultural life and from an agricultural one, to one of manufacturing, commerce or trade as we have done. He has been called upon suddenly and without warning to enter upon a new existence.[19]

The need for government intervention to liberate these savage people from the retrograde influence of a culture that could not cope with rapidly changing circumstances was pressing and

obvious. Without it, the inspector continued, the Indian "must have failed and perished miserably and he would have died hard entailing expense and disgrace upon the Country." The exact point of intervention that would "force a change in [the Indian's] condition" was equally clear — "it is to the young that we must look for a complete change of condition."

Only in the children could hope for the future reside, for only children could undergo "the transformation from the natural condition to that of civilization".[20] Adults could not join the march of progress. They could not be emancipated from their "present state of ignorance, superstition and helplessness";[21] they were "physically, mentally and morally...unfitted to bear such a complete *metamorphosis*".[22] *Under departmental tutelage, adults might make* some slight advance. They could, Davin suggested, "be taught to do a little at farming and at stock raising and to dress in a more civilized fashion, but that is all."[23] They were, in the words of the Reverend E.F. Wilson, founder of the Shingwauk residential school, "the old unimprovable people."[24]

The central difficulty in this analysis was not that adults were lost to civilization, but that they were an impediment to it. While they could not learn, they could, as parents, teach their children. Through them to their children and on through successive generations ran the "influence of the wigwam". If the children's potential was to be realized, it could only be outside the family. As E. Dewdney, superintendent general of Indian affairs in Macdonald's second government, reasoned, children therefore had to be removed from "deleterious home influences";[25] they must be, the Archbishop of St. Boniface added, "caught young to be saved from what is on the whole the degenerating influence of their home environment."[26] Their parents were, by the light of the vision's compelling logic, unfit. Only Frank Oliver demurred, pointing out the essentially un-Christian implication of this formative conclusion:

I hope you will excuse me for so speaking but one of the most important commandments laid upon the human by the divine is love and respect by children for parents. It seems strange that in the name of religion a system of education should have been instituted, the foundation principle of which not only ignored but contradicted this command.[27]

No one took any notice of the minister, however, for no one involved in Indian affairs doubted for a moment that separation was justified and necessary and that residential schools were therefore indispensable. Such institutions would, Parliament had been informed in 1889, undoubtedly reclaim the child "from the uncivilized state in which he has been brought up" by bringing "him into contact from day to day with all that tends to effect a change in his views and habits of life."[28] In its enthusiasm for the schools, the department went so far as to suggest that it would be "highly desirable, if it were practicable, to obtain entire possession of all Indian children after they attain to the age of seven or eight years, and keep them at
schools...until they have had a thorough course of instruction".[29]

The common wisdom of the day that animated the educational

plans of church and state was that Aboriginal children had to be rescued from their "evil surroundings", isolated from parents, family and community,[30] and "kept constantly within the circle of civilized conditions".[31] There, through a purposeful course of instruction that Vankoughnet described as "persistent" tuition,[32] a great transformation would be wrought in the children. By a curriculum aimed at radical cultural change — the second critical element of the vision — the 'savage' child would surely be re-made into the 'civilized' adult.

The school, as department and church officials conceived it, was a circle, an all-encompassing environment of re-socialization with a curriculum that comprised not only academic and practical training but the whole life of the child in the school. This constituted the basic design of the schools and was maintained, with little variation, for most of the history of the system.

The classroom work of the teachers and students was to be guided by the standard provincial curriculum. To this was added equally important training in practical skills. The department held firm to Davin's industrial model, convinced that

no system of Indian training is right that does not endeavour to develop all the abilities, remove prejudice against labour, and give courage to compete with the rest of the world. The Indian problem exists owing to the fact that the Indian is untrained to take his place in the world. Once teach him to do this, and the solution is had.[33]

In every school, therefore, the children were to receive instruction in a range of subjects, including, for the boys, agriculture, carpentry, shoemaking, blacksmithing, tinsmithing and printing and, for the girls, sewing, shirt making, knitting, cooking, laundry, dairying, ironing and general household duties. As the curriculum was delivered in a half-day system until after the Second World War, with students spending half the day in the classroom and the other half in practical activities, trades training took place both in shops and in learn-by-doing chores. These chores had the additional benefit for the school of providing labour — on the farm and in the residences, bakehouse, laundry and dairy that made operation of the institution possible.[34]

Although these academic and practical courses might clothe the children in the skills and experience they needed to survive and prosper, the department and the churches realized that the children would have to undergo much more profound socialization. Skills would be useless unless accompanied by the values of the society the children were destined to join. The seeds of those values were, of course, embedded in each and every academic subject, in the literature they read, the poetry they recited, and the songs they were taught to sing. As well, however, in its 1896 program of study, the department directed that an ethics course be taught in each grade. In the first year, the students were to be taught the "practice of cleanliness, obedience, respect, order, neatness", followed in subsequent years by "Right and wrong", "Independence. Self-respect", "Industry. Honesty. Thrift", and "Patriotism....Self-maintenance. Charity." In the final year, they were confronted by

the "Evils of Indian Isolation", "Labour the Law of Life" and "Home and public duties".[35]

Cardinal among these virtues was moral training for, as a memorandum from the Catholic principals explained, "all true civilization must be based on moral law." Christianity had to supplant the children's Aboriginal spirituality, which was nothing more than "pagan superstition" that "could not suffice" to make them "practise the virtues of our civilization and avoid its attendant vices." In the schools, as well as in the communities, there could be no compromise, no countenancing Aboriginal beliefs and rituals, which, "being the result of a free and easy mode of life, cannot conform to the intense struggle for life which our social conditions *require*."[36]

The children were not only to imbibe those values, and a new faith, they were to live them. The school was to be a home — a Canadian one. On crossing its threshold, the children were entering a non-Aboriginal world where, with their hair shorn and dressed in European clothes, they would leave behind the 'savage' seasonal round of hunting and gathering for a life ordered by the hourly precision of clocks and bells and an annual calendar of rituals, the festivals of church and state — Christmas, Victoria Day, Dominion Day and St. Jean Baptiste Day — that were the rapid, steady pulse of the industrial world. According to Dewdney, students had to be taught that "there should be an object for the employment of every moment", and thus the "routine...the recurrence of the hours for meals, classwork, outside duties...are all of great importance in the training and education, with a view to future usefulness".[37]

In school, in chapel, at work and even at play the children were to learn the Canadian way. Recreation was re-creation. Games and activities would not be the "boisterous and unorganized games" of "savage" youth. Rather they were to have brass bands, football, cricket, baseball and above all hockey "with the well regulated and...strict rules that govern our modern games", prompting "obedience to discipline" and thus contributing to the process of moving the children along the path to civilization.[38]

None of the foregoing would be achieved, however, unless the children were first released from the shackles that tied them to their parents, communities and cultures. The civilizers in the churches and the department understood this and, moreover, that it would not be accomplished simply by bringing the children into the school. Rather it required a concerted attack on the ontology, on the basic cultural patterning of the children and on their world view. They had to be taught to see and understand the world as a European place within which only European values and beliefs had meaning; thus the wisdom of their cultures would seem to them only savage superstition. A wedge had to be driven not only physically between parent and child but also culturally and spiritually. Such children would then be separated forever from their communities, for even if they went home they would, in the words of George Manuel, bring "the generation gap with them".[39] Only in such a profound fashion could the separation from savagery and the re-orientation as civilized be assured.

That the department and churches understood the central challenge they faced in civilizing the children as that of overturning Aboriginal ontology is seen in their identification of language as the most critical issue in the curriculum. It was through language that children received their cultural heritage from parents and community. It was the vital connection that civilizers knew had to be cut if progress was to be made. E.F. Wilson informed the department that at Shingwauk school, "We make a great point of insisting on the boys *talking English*, as, for their advancement in civilization, this is, of all things, the most necessary."[40] Aboriginal languages could not carry the burden of civilization; they could not "impart ideas which, being entirely outside the experience and environment of the pupils and their parents, have no equivalent expression in their native language."[41] Those ideas were the core concepts of European culture — its ontology, theology and values. Without the English language, the department announced in its annual report of 1895, the Aboriginal person is "permanently disabled" and beyond the pale of assimilation for, "So long as he keeps his native tongue, so long will he remain a community apart."[42]

The only effective road to English or French, however, and thus a necessary pre-condition for moving forward with the multi-faceted civilizing strategy, was to stamp out Aboriginal languages in the schools and in the children. The importance of this to the department and the churches cannot be overstated. In fact, the entire residential school project was balanced on the proposition that the gate to assimilation was unlocked only by the progressive destruction of Aboriginal languages. With that growing silence would come the dying whisper of Aboriginal cultures. To that end, the department ordered that "the use of English in preference to the Indian dialect must be insisted upon."[43]

It was left to school principals to implement that directive, to teach the languages of 'civilization' — French in Quebec and English in all other parts of Canada, including Francophone areas, and to prevent the language of 'savagery' from being spoken in the school. Some instituted imaginative systems of positive reinforcement through rewards, prizes or privileges for the exclusive use of English. More often than not, however, the common method was punishment. Children throughout the history of the system were beaten for speaking their language.[44]

The third and final part of the vision was devoted to the graduates, their future life and their contribution to the civilization of their communities. It was this aspect of the vision that underwent the greatest change. While the ideology of the curriculum and its goal of extensive cultural replacement remained constant, the perceived utility of the schools to the overall strategy of assimilation and their relationship to Aboriginal communities underwent substantial revision. There were, in fact, two residential school policies. The first, in the long period before the Second World War, placed the school at the heart of the strategy to disestablish communities through assimilation. In the subsequent period, the residential school system served a secondary role in support of the integration of children into the provincial education system and the modernization of communities.

Initially, the schools were seen as a bridge from the Aboriginal world into non-Aboriginal communities. That passage was marked out in clear stages: separation, socialization and, finally, assimilation through enfranchisement. By this last step, the male graduate could avail himself of the enfranchisement provisions of the *Indian Act*, leaving behind his Indian status and taking on the privileges and responsibilities of citizenship.

Each stage in the passage had its difficulties, and the department was fully aware that its task was not completed with the training that led to graduation. Indeed, it declared in its annual report of 1887, "it is after its completion that the greatest care...needs to be exercised, in order to prevent retrogression." Retrogression — cultural backsliding — was the great fear. Once the connection between child and community had been broken it should not be re-established; the child should never again fall under the influence of Indian "prejudices and traditions" or the "degradations of savage life."45 To prevent this unhappy occurrence, the department reported in 1887, it would be best "to prevent those whose education at an industrial institution...has been completed from returning to the reserves". They were instead to be placed in the non-Aboriginal world and secured there by employment in the trade they had learned at the school, "so as to cause them to reside in towns, or, in the case of farmers, in settlements of white people, and thus become amalgamated with the general community."[46] By implication, the future was not only one of amalgamating growing numbers of employable graduates but also the progressive decay and final disappearance of reserve communities.

Reality intervened in this strategy, however, and, indeed, the department and the churches did not exercise the "greatest care" of graduates. There was no placement program, and even if there had been, situations were not available in towns or "settlements of white people". "Race prejudice", an Indian agent informed the department, "is against them and I am afraid that it will take time, under the circumstances, before they can compete with their white brothers in the trades."[47] By 1896, the department had to face the fact that "for the majority [of graduates], for the present at least, there appears to be no alternative" but to return to the reserves.[48] That present became the future; there were always but few openings for graduates. With the exception of temporary labour shortages during the war, it was obvious that "no appreciable number of graduates of the Schools will be in a position to earn a livelihood by working as a craftsman among whites."[49]

The second fact that had to be faced was that in returning to their communities, as Reed predicted, "there will be a much stronger tendency for the few to merge into the many than to elevate them."[50] A great proportion of the graduates would go "back to the ways of the old teepee life",[51] to the "nomadic habits of his ancestors."[52] They could not, one principal reported "stand firm" or "overcome this tendency to drift with the current that carries so many of their own people."[53]

The department and the churches recognized the problem — one that cut to the very heart of their strategy, blunting the usefulness of the schools and in fact so calling into question the industrial

school model that, in 1922, it was abandoned in favour of the simpler boarding school, thereafter called a residential school. They recognized it but, as would be the case so often in the history of the system when it faced difficulties, they did very little apart from discuss it and formulate proposals.[54]

In 1898, the deputy superintendent general, James Smart, recognizing the impossibility of countering the drift back to reserves, decided to make a virtue out of necessity. He redesigned the system, supplementing its original emphasis on the enfranchisement of individual graduates with the additional goal of developing the communities to which the graduate returned. It would now be the object "to have each pupil impart what he has gained to his less fortunate fellows, and in fact become a centre of improving influence for the elevation of his race".[55] The graduates could be, the principal of the Regina industrial school predicted, a "great moral force in the uplift of the life of the reserve", providing "an object lesson" in farming, gardening, housekeeping, the care of the sick and "maintaining sanitary conditions about their homes."[56]

By 1901, the department had initiated an experiment, the File Hills colony on the Peepeekeesis reserve, designed to release the graduates' uplifting developmental potential. The colony, under the close supervision of the agent W.M. Graham, was a model settlement of 15 former pupils, each allocated an 80-acre lot, horses, farming equipment, lumber and hardware for houses. Departmental expenses were to be recouped from the young farmers when they achieved an adequate income and the funds transferred to "help others make a like start."[57]

Reports on the colony were promising in 1902 but in ensuing years they were much less so,[58] with the graduates described as being "all the way from 'lazy and indifferent' to 'making favourable or satisfactory progress'".[59] Reflecting these assessments, or perhaps because the experiment was, as the historian Olive Dickason has suggested, "too costly for the budget-minded department",[60] Duncan Campbell Scott chose not to extend it. Instead, he merely called upon principals and agents to co-ordinate the return of graduates to reserves and, so that they should not be thrown "entirely upon [their] own resources", he announced a modest start-up program — offering graduates "a gift of oxen and implements...and the granting of a loan which must be repaid within a certain time, and for which an agreement is signed by the pupil."[61]

These loans substituted for what could have been a more ambitious attempt to resolve the problem of the graduates.[62] As the United Church's Association of Indian Workers in Saskatchewan pointed out in 1930, there continued to be "a missing link that should be forged into the present system along the line of 'Follow up work'."[63] Without such a link, without any effective "control over the graduates",[64] they were destined to return to the reserves, where rather than being that "great moral force",[65] they would fall under "the depressing influence of those whose habits still largely pertain to savage life".[66] For those ex-pupils and for the communities, assimilation would remain an ever-distant departmental goal.

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1.2 Changing Policies

...the interests of the children are best served by leaving them with their parents.[67]

The fact that the department stumbled in planning this final step to assimilation was augmented by an even more disturbing reality. As a general rule, at no time in the history of the system did the schools produce the well-educated graduates that were the prerequisite for both the original scheme of enfranchisement and Smart's amended community-based strategy. Indeed, the use of the word graduate was rather misleading, for very few children completed the full course of study, though it is clear that many children did receive some of the basics of a rudimentary education and a few children reached advanced levels. Even for those that did complete the program, most schools did not provide the training that was such an essential part of the residential vision. According to a review of the educational performance of the system up to 1950, conducted in 1968 by R.F. Davey, the director of educational services, the practical training that had been in place "contained very little of instructional value but consisted mainly of the performance of repetitive, routine chores of little or no educational value."[68]

Davey's judgement of the quality of the academic program was equally harsh. The system had failed to keep pace with advances in the general field of education and, because the schools were often in isolated locations and generally offered low salaries, the system had been unable to attract qualified staff. A departmental study quoted by Davey found that, as late as 1950, "over 40 per cent of the teaching staff had no professional training. Indeed, some had not even graduated from high school." Moreover, teachers worked under the most difficult conditions. Language training was a persistent problem, and the half-day system reduced class time to the extent that it was, Davey concluded, virtually impossible for students to make significant progress. He noted in his report that in 1945, when there were 9,149 residential school students, the annual report of the department showed only "slightly over 100 students enroled in grades above grade VIII and...there was no record of any students beyond the grade IX level."

In the 1950s and '60s the department made improvements in the educational component of the residential system. Additional departmental educational supervisory staff were employed, in 1951 the half-day system was abandoned, the department assumed direct responsibility for the hiring and remuneration of teachers in

1954,[69] and, in an attempt to attract more competent staff, teachers were "placed upon salary scales which bore some relationship to the salaries paid across the country."[70]

In attracting more competent staff, the department was able to achieve considerable success quickly. By 1957, the number of unqualified teachers in residential schools had been reduced by 50 per cent, and in 1962 the department reported that 91.1 per cent of the teachers it employed were fully qualified.[71] It was not easy to keep the percentage up, however, and two decades later the department admitted that it still had "difficulty in recruiting and retaining education staff."72 Nevertheless, the department could track advances in educational attainment. By 1959, the number of children in grades 9 to 13 in residential and day schools had increased from none in 1945 to 2,144, and in the next decade, it rose even more rapidly to 6,834, which was just over 10 per cent of the total school (day and residential) population.[73]

All these efforts were overshadowed by what had been and continued to be a most fundamental impediment. Both the curriculum and the pedagogy, which were not in any way appropriate to the culture of the students, made it difficult for the children to learn. This fact could not have escaped the department's and the churches' attention, for on a number of occasions provincial school inspectors, employed by the department to assess the educational condition of the schools, had made the point that the "curricula in use in various provinces are not necessarily the courses of study adapted for use in Indian schools." "It should not be forgotten", Inspector Warkentin informed the department in 1951, "that there is very often a very wide difference in the life experiences of Indian children and white children, a difference which should be reflected in courses of study."[74] Another inspector, while reinforcing this point, added a call for a change in pedagogy to one that would be more familiar to the children. In considering the subject of social studies, for example, he advised that "this work be taught by a due recognition of Indian background. Story telling can be used more effectively to arouse interest."[75]

Although the department admitted in the 1970s that the curriculum had not been geared to the children's "sociological needs", it did little to rectify that situation. A national survey was undertaken "to identify textbooks that the Indian people considered offensive, and steps were taken to remove these books from the schools".[76] Research was commissioned from a number of universities to address "the absence from the school curriculum generally of an Indian cultural component",[77] but none of it was of the scope that would ever have met Warkentin's suggestion that a comprehensive "curriculum specially aimed at the instruction of Indian children should be drawn up".[78] There is no indication in school records that the results of any of this research found its way into the classrooms of residential schools.

Efforts to improve the school program in the post-war period were undercut further by one final factor — the system was gradually abandoned. In 1948, the federal government — on the recommendation of the joint parliamentary committee on Indian

affairs, which in hearings held beginning in 1946, had received strong representations from Indian groups for "an end to the policy and practice of segregated education"[79] — initiated an extensive redesign of its Aboriginal education strategy that not only took the emphasis off residential schools but determined that the system should be shut down completely as soon as possible. . Departmental efforts and resources were reallocated to a new policy, away from the residential system to creation of a day school system and, most significantly, integration by "transferring Indian children to provincial schools, and federal schools to provincial administrative school units."[80]

The representations of Indian groups cannot be wholly discounted in this development, but in fact the move away from the traditional strategy began even before the war, and the dynamics that motivated it were, as always, a non-Aboriginal assimilative strategy and more mundane considerations — financial ones in this instance. In 1943, R.A. Hoey appeared before a special parliamentary committee on reconstruction and re-establishment. Reacting to statements by one of the committee members — that residential schools "lose a great deal of the value of the education", because they "segregate the children" from their community, and that if children were educated in a day school "[y]ou would educate the parents and the children together" — Hoey admitted that he too had doubts about the efficacy of residential schools. His personal preference was "to see residential schools slowly and gradually closed".[81]

Hoey took back to the department the clear understanding that the "Indians in the judgement of the committee, should be encouraged to attend white schools" and that this would probably be the policy of the future. He was, as the department would be, in total agreement with such a policy directive. As he pointed out to the deputy minister, there was a definite educational benefit in giving the children the "opportunity of associating with white children during their formative years".[82] Such experience would increase the likelihood of their absorbing non-Aboriginal culture or, as Davey characterized it two decades later, would "quicken and give meaning to the accultural process through which [the children] are passing".[83] There also appeared to be a financial advantage for the government, in that integration, Hoey believed, "would in the end be substantially less than the cost of establishing" and operating an exclusively federal system of residential and day schools.[84]

The policy of integration, though an apparently radical redirection of educational policy, was not based on a wholly new vision of education's role in the quest for assimilation. It built upon Smart's idea of community development, but in this version, in a most surprising break with the civilizing logic of the late nineteenth century, an active part was assigned to the parents, whose dangerously savage character and baleful influence appear mysteriously to have disappeared. Indeed, the department took the position that maintaining the parent/child relationship was key — that "there can be no complete substitute for the care and concern of parents and the security which children feel when living at home".[85] Therefore,

It is considered that the parents, wherever possible, should assume the responsibility for the care of their children, and that the interests of the children are best served by leaving them with their parents when home circumstances and other factors are favourable.[86]

This now-valued parental involvement was even given institutional form in federal day and residential schools. In 1956, the department set up a number of school committees "to stimulate parental and community interest, and to provide experience for the further involvement of Indians in the management of education." The committees, made up of band members, were to act as "advisory boards to departmental staff" and were to be "involved in the operation of the schools", being given authority for the "school lunch program, daily school transportation, repairs and the maintenance of school buildings...and they also present the annual operating budget to the district superintendent of education."[87] While the department expanded this initiative, establishing some 180 such committees by 1971, there was no increase in their authority. Most noticeably, they were given no control over curriculum, perhaps so that whatever traces of the influence of the wigwam still existed might be effectively excluded from the classroom.

There is, indeed, reason to suspect that integration — despite the apparent cultural sensitivity of the textbook survey and commissioned research — did not lessen, and may even have increased, the corrosive impact of education on the culture of the children. Again, as in the original vision, the question of language was the essential template shaping the policy. The department realized that "the most formidable handicap that faces the Indian child entering [the provincial] school"[88] was the requirement to be able to function in English (and in French or English in Quebec). To that end, the greatest emphasis in this period was on the development of a language arts program,[89] and regional language specialists were employed to help the children "overcome any language difficulties",[90] in the belief that "much of the progress in Indian education" was to be realized by these "improved methods of language instruction."[91]

Most significantly, integration meant repositioning the residential school system. No longer the main thrust of the assimilative strategy, it became, as the department described it, "a supplementary service" for children "who for very special reasons, cannot commute to federal day schools or provincial schools from their homes".[92] The new organizing principle of the policy was "that in educational services, everything possible will be done to enable families to stay together, so children will not have to be separated from their parents needlessly."[93]

The whole educational system could not, of course, be remodelled overnight to conform to this new dictum. Rather the change in status occurred school by school, at different times in different parts of the country owing to local circumstances — for example, the development of reserve roads to allow busing of children to day schools, the construction of schools close to communities, and the progress of integration, which could not go forward without

negotiating local school board and provincial agreements. The residential school system therefore comprised, at any point in time, a spectrum of different types of residential schools — from those that remained classic residential schools because of community isolation, to those that combined "residential and day school with a preponderance of day students", to those that became hostels or student residences for children brought in from distant communities to provincial schools during the day. There were even some that

combined hostel, residential and day school, providing boarding facilities only for those pupils attending a nearby provincial school, boarding facilities and classroom instruction for others and classroom instruction only for day pupils.[94]

Finally, a boarding home program, involving the placement of high school students "in carefully selected private homes", was also introduced and substituted for residential assignment of children.[95]

The overall intention, of course, was for all residential schools to be closed as soon as implementation of the integration policy reduced enrolments. In 1948, 60 per cent of the Indian school population was enroled in federal schools.[96] In 1969, 60 per cent were in provincial schools,[97] and the number of residential schools and hostels was reduced from the 72 schools operating in 1948, with 9,368 students, to 52 schools with 7,704. That the number of schools and students did not fall proportionately was attributable not only to local circumstances but to two further difficulties — opposition to closures and the emergence of a new role for the schools as social welfare institutions.

The development of a welfare function was not a completely unforeseen implication of the new integration policy. Hoey had warned the reconstruction and re-establishment committee in 1943 that there would continue to be a need for residential places for "orphans and children from disrupted homes".[98] Because of "such things as alcoholism in the home, lack of supervision, serious immaturity",[99] some parents would not be able, as the new policy directed, to "assume the responsibility for the care of their children".[100] To reflect that reality and at the same time control and reduce residential school enrolments, an admissions policy "based upon the circumstances of the student's family"[101] was adopted. In areas where federal day school attendance or integration was possible, priority was given to children deemed to be "Category 3" — those from families where "a serious problem leading to neglect of children exists". Neglect — measured, of course, against non-Aboriginal norms — was "interpreted as defined in the provincial statute of the province in which the family resides".[102] In line with the general post-war trend of involving provinces in Indian affairs, provincial child welfare agencies co-operated in determining cases of neglect and in placing children in care. Residential schools were an available and apparently popular option within the wider child care system.

As the integration program expanded, many residential schools, particularly in southern Canada, where the rate of progress was most extensive, became, to a degree alarming to the department, repositories for 'neglected' children.[103] A confidential 1966

departmental report estimated that 75 per cent of children in the schools were "from homes which, by reasons of overcrowding and parental neglect or indifference, are considered unfit for school children."[104] This trend caused a serious bottleneck in the process of reducing enrolments. It might have been remedied by providing support to families in communities to "alleviate the situations where children year in and year out are being removed from their homes and the home situation [remains] practically the same."[105] The more usual methods, however, appear to have been either the referral of children requiring long-term care "to a child welfare agency for foster home service" or adoption or the placement of "incorrigible" children with "an officer of a correctional or welfare agency."[106]

As the department characterized the situation, this welfare bottleneck put it in the anomalous position of having to administer a group of schools which have a degree of independence of operation permitting them to pursue policies which are diametrically opposed to those of the Federal Government, particularly with respect to segregation and welfare. The tension created by this internal conflict is damaging to the Indian education program and confusing to the Canadian public.[107]

Much of this conflict sprang from opposition to integration that the department had, in fact, anticipated from its old partner in education, the churches, and from "some Indian associations who dislike working with provincial governments, and from individuals, both Indian and non-Indian, who, for personal reasons, wish to keep the federal schools open."[108]

Church opposition came almost exclusively from the Catholic church,[109] which fought particularly hard in western Canada where, as the department noted, perhaps cynically, provinces "do not provide for separate schools".[110] According to the church, its position was purely altruistic. In *Residential Education for Indian Acculturation*, a study produced in 1959 by the Oblate Indian and Eskimo Welfare Commission, the church argued that separate on-reserve education in day schools or separate residential school education provided greater educational benefits and had greater "efficiency towards acculturation". Residential schools, in addition, provided healthier living conditions, more appropriate supervision, better grouping by grade and more vocational training possibilities than the average day school. It is also usually in a better position to offer a wider range of social and recreational activities including those with non-Indians.[111]

The church conducted an aggressive political campaign in the late 1950s and into the 1960s through the reserve-based Catholic Indian League to save the schools it managed and particularly to extend high school services through residential schools.[112] Each closure was a battle by "pulpit, press and politicians"[113] but they were made, school by school, normally by a complicated process of closing residences with low enrolments and transferring the remaining children to others, all the while carefully retaining the single denominational affiliation of each school.[114]

In 1969, the federal government obviated the need for that careful

process when it formally ended the partnership with the churches, effectively secularizing Aboriginal education.[115] The department then had almost unrestrained control of the residential school system. The rate of closures in the next decade bore witness to that; by 1979, the number of schools had fallen from 52 with 7,704 students to 12 with 1,899.

The withdrawal of the churches did not clear the way forward completely, however. Bands and political associations insisted on consultation when closures were proposed and pushed for "increased responsibility in the management of student residences".[116] In that same vein, the National Indian Brotherhood proposed in 1971 that "residence services be contracted to Indian groups having the approval of the bands served by the respective residences."[117] Communities connected with the Blue Quills school not only prevented its closure but forced the government to turn it over to the people of the Saddle Lake-Athabaska district.[118] The need for such co-operation became paramount after the government accepted, in 1972, the principle of Indian control of Indian education. In line with that, the department adopted the position that "major changes in the operation and administration of individual residences will be considered only in consultation with Indian parents or their representatives."[119] In the next few years six more schools in Saskatchewan followed the Blue Quills lead. By 1986, apart from a continued funding responsibility for such schools, the department virtually came to the end of the residential school road.[120]

The introduction of integration, the context for the final closure or transfer of the schools, was not the only significant development in the post-war period. As the nation moved north, further penetrating Indian, Métis and Inuit homelands, a whole new tier of schools was created in the Northwest Territories.

Northern Aboriginal peoples had not been untouched by the residential school system in the pre-war period. Schools in British Columbia, Alberta, Saskatchewan, Ontario and Quebec had taken in children from far northern communities. Yukon Indians were served by the Anglican residential school begun at Carcross in 1902 and by the Catholic Lower Post School in British Columbia.[121] In the Northwest Territories, residential schools operated at Fort Providence, Aklavik and Fort Resolution. Inuit students had been concentrated at the Roman Catholic and Anglican residential schools at Aklavik and Fort George on the eastern coast of James Bay in Quebec. There were, as well, federal and missionary day schools.[122]

In March 1955, the government, through the Department of Northern Affairs and National Resources, incorporated these largely church-initiated developments into an official educational strategy.[123] This administrative arrangement had been chosen to allow "a single system of schools for children of all races", facilitating "greater economy of effort" and removing "any element of segregation".[124] There any substantial differences with the southern system ended. The presumptive scenario and educational philosophy, the vision and the attitudes toward Aboriginal people that underlay this system, bore considerable resemblance to what

they had been in the south. Growing scarcity in the resources that supported the traditional hunting and gathering culture, caused in part by incursions into the region by resource development, combined with a dramatic fall in the price of fur and the rapid growth of population — tied, the government suggested, to improved medical services[125] — provided both the need and the opportunity for a new life. It was the government's announced belief that as "[c]ivilization is now advancing into the Arctic areas at such a rapid pace...[it] is therefore essential that [Aboriginal people] be assisted in every possible way to face the future in a realistic manner — in a way which will result in their becoming true Canadian citizens...".[126]

That assistance was to come primarily by way of "an extensive program of construction of schools and hostels to provide better education."[127] By 1969-1970, as plans were finalized to transfer education to the government of the Northwest Territories,[128] the Northern Affairs department had completed a network of schools that included eight "large pupil residences", with room for an average of 150 children each, and a series of some eleven "small hostels" for up to 25 children in Arctic locations. The annual enrolment averaged some 1,200 children.[129]

Despite the fact that this development occurred in the 1950s and '60s, the 'frontier' nature of the north meant that the system stressed the value of residential schools and hostels. They were characterized, in this latest assimilative campaign, in terms that harked back to Davin's era, as "the most effective way of giving children from primitive environments, experience in education along the lines of civilization leading to vocational training to fit them for occupations in the white man's economy."[130] As in the south, the hostels brought children of "nomadic parents" into contact with day schools to facilitate the "complete integration of the education of the Indians and Eskimos in the north with white children living in the same area." Again, the system would employ the acculturative medium of "provincial curricula", with teachers being "encouraged to adapt these to the special needs of the Eskimo child."

Residential schools and hostels were to make not only an educational contribution but also, Northern Affairs predicted, a wider socializing, civilizing function that would serve educational advancement. With respect to Inuit, for example, they would have the advantage of removing children from homes that lacked "all the more desirable habits of sanitation, cleanliness and health since the tents and snow houses in which they live are so small and their way of life is so primitive." In the schools, it would be possible to carry out "adequate health education programmes" which, with improvements on the traditional diet, would "make them better able to carry on with their schooling", which would in turn ensure their "orderly integration into the white economy."[131]

In the north, as in the south in the days before integration, the government with its church partners presumed to stand in the place of the children's parents, taking children into residential schools so that they could "face the future in a realistic manner" — that being as "true Canadian citizens". Unfortunately, the record of this

national presumption, whether traced in the north or the south cannot be drawn as a "circle of civilized conditions."

2. Systemic Neglect: Administrative and Financial Realities

In any evaluation of the residential school record throughout its long history, a persistent reality appears amidst shifting vision and policies. Not only did the system fail to transport Aboriginal children through the classroom to the desired assimilative destination — or even, as Davey's 1968 record witnessed, to provide adequate levels of education — it failed to cherish them. In the building, funding and management of those purported "circles of civilized conditions", it failed to make of those schools homes where children would always be well-clothed and fed, safely housed and kindly treated. Even in the post-war period, administrative and financial reforms adopted in the midst of the general reorganization of Aboriginal education could not retrieve the situation and did not reverse the chronic neglect of the system, which forced children to live in conditions and endure levels of care that fell short of acceptable standards.

The persistently woeful condition of the school system and the too often substandard care of the children were rooted in a number of factors: in the government's and churches' unrelieved underfunding of the system, in the method of financing individual schools, in the failure of the department to exercise adequate oversight and control of the schools, and in the failure of the department and the churches to ensure proper treatment of the children by staff. Those conditions constituted the context for the neglect, abuse and death of an incalculable number of children and for immeasurable damage to Aboriginal communities.

This is not the story of an aging nineteenth century structure falling into decay but of flaws, inherent in the creation and subsequent management of the system, that were never remedied. From Confederation, with two schools in operation, the system grew at the rate of some two schools a year, so that by 1904 there were 64 schools. Such growth was not the product of forethought, of a developmental strategy controlled by the government or by the department of Indian affairs. Rather it was the product of federal reactions to the force of missionary efforts across the country and the considerable force of the churches' political influence in Ottawa by which they secured funds to operate the schools.[132] No better summary of the process of building the system can be given than that contained in a departmental briefing to the minister, Charles Stewart, in 1927: "It thus happens that Churches have been pioneers in the remote parts of the country, and with missionary funds have put up buildings and induced the department to provide funds for maintenance."[133]

Though its senior officials were themselves dedicated to the concept of residential education, the department was in a sense driven before a whirlwind of missionary activity. No matter which way it turned — in the west, the north and into British Columbia — as it moved to implement Davin's industrial school design, the

department found schools already constructed and holding classes for children. By 1907 — with 77 schools on the books, the great majority of them established by the churches, and with no sign of the flood of new schools or church petitions for support waning — the senior clerk in the education section, Martin Benson, proclaimed, with evident exasperation, "The clergy seem to be going wild on the subject of Indian education and it is time some limit should be fixed as to their demands."[134]

Indeed, the department had already tried, unsuccessfully, to bring the system, especially its rapidly rising costs, under control. By order in council in 1892, the department introduced what Vankoughnet termed a "correct principle" — a per capita grant arrangement that remained in force until 1957.[135] This principle was attractive because, in theory at least, it would enable the department to "know exactly where we stand", limiting the federal contribution to the schools to a fixed annual figure tied to enrolments.[136]

This attempt by the department to "relieve the pressure of present expenditure" and to institute "economical management" on the part of the churches, to quote the order in council, was a total failure. In limiting the liability of the department, the per capita system automatically threw an increased financial burden onto the shoulders of the churches. In the case of schools where the per capita grant did not meet a large enough part of the operating costs, which were impossible to standardize owing to the differing circumstances of schools — location, access to supplies, the availability of students — or where school management continued to be faulty, churches soon claimed that their funds were oversubscribed. They returned to Ottawa, cap in hand, for additional funding and yearly made demands for increases in per capita rates. By 1904, the collective deficit was $50,000 and rising, and the auditor general demanded yet tighter control — "A rigid inspection of financial affairs should be made on behalf of the government at least once a year."[137]

The auditor general was not alone in pushing for reform. In 1906 the Protestant churches submitted their Winnipeg Resolutions, drawn up at a conference on education. These reiterated demands they had been making each year for increased per capitas, upgrading of schools at government expense, and increased allocations for teachers' salaries.[138] The resolutions and the deputy superintendent general's admission that the financial ills of the system lay in underfunding[139] rather than, as the department charged constantly, in the inefficient and extravagant hands of church appointed principals, brought on the second attempt to bring order to the system. This took the form of contracts between the government and the churches, signed in 1911, in which, the minister promised,

the whole conduct and management of these schools would be covered...the responsibilities of each toward the other would be definitely fixed and the financial straits in which the churches found themselves...would in a measure be relieved by the Government.[140]

The minister was as good as his word — in part. New, higher per capita rates, recognizing regional cost differences, were adopted,[141] and the contracts dealt with the obligations of the churches and the government, establishing the department as senior partner in the joint management of the schools. It had primary responsibility for setting standards of care and education, including the appointment and dismissal of teachers, and it reserved the right to cancel the contract pertaining to any school not being operated according to the regulations it formulated. To that end, the churches had to hold the schools ready for inspection by the department.[142]

The contracts were meant to mark a new beginning for the system, laying the basis for "improved relations" between the department and the churches that were in turn to result "in benefit to the physical condition and intellectual advancement of the Indian children."[143] Such hopeful predictions were not, however, the substance of effective reform. The system soon fell back into funding and management difficulties. The contracts were to be reviewed and renewed at the end of five years, but they never were and without any legal agreement to bind the parties, they drifted back into the previous "unbusinesslike lack of arrangement"[144] and into discord over operation of the system.

On the financial front, government intentions were overborne by a long string of excuses for continued underfunding. The First World War and then the Depression prevented significant increases or clawed back, in whole or part, those the department was able to allocate.[145] While the Second World War pulled the country out of the Depression, it also meant cuts "to almost every appropriation"[146] and made the department realize that "it would be exceedingly difficult to secure the funds necessary...at any time during the years that lie ahead of us."[147]

As a result, there were never enough funds in the pre-Second World War era to satisfy the appetite of the churches or to prevent them from again encountering substantial deficits.[148] While the department publicly contested the churches' assertion of how desperate the financial situation was, privately it had its own figures that demonstrated dramatically that the per capita, pegged at $180 in 1938, was "exceptionably low" and inadequate for the needs of the children, particularly in relation to the funding of other residential care facilities. Hoey informed the deputy superintendent general, H. McGill, that the province of Manitoba provided grants of $642 and $550 per capita respectively to the School for the Deaf and the School for Boys. Private institutions in the province were also funded more generously. The Knowles School for Boys received $362 for each boy from the Community Chest, and the Catholic church provided St. Norbert's Orphanage with $294 per capita. The residential schools fared no better in comparison with funding for similar institutions in the United States, where the Child Welfare League of America estimated that the average per capita grant of large child care institutions was $541, with smaller ones running only as low as $313.[149]

The cumulative weight of underfunding of the system throughout this period, which pressed down on the balance books of the

churches and the department and drove individual schools into debt, was nothing compared to its consequences for the schools and their students. Badly built, poorly maintained and overcrowded, the schools' deplorable conditions were a dreadful weight that pressed down on the thousands of children who attended them. For many of those children it proved to be a mortal weight. Scott, reviewing the history of the system for the new minister, Arthur Meighen, in 1918, noted that the buildings were "undoubtedly chargeable with a very high death rate among the pupils."[150]

When the churches and the department signed the 1911 contracts, it was clear to all the partners that there was a crisis in the conditions and sanitation of the schools and, therefore, in the health of the children. They could not have failed to know it for they had at hand two reports, one by the department's chief medical officer, Dr. P.H. Bryce, outlining in a most sensational manner the tragic impact of tuberculosis on the children, and another by a departmental accountant, F.H. Paget, who had been detailed to survey the condition of the schools in the west.

Throughout the initial stages of the unrestrained building of the system, the department had been, Duncan Campbell Scott admitted, "intensely apprehensive" about the quality and safety of the schools, which the churches routinely "erected on very primitive plans".[151] According to an assessment of the system by Martin Benson in 1897, the department's own record was not a great deal better. Many of the buildings it was responsible for constructing, in association with the department of public works, had "been put up without due regard for the purpose for which they would be required, hurriedly constructed of poor materials, badly laid out without due provision for lighting, heating or ventilating."[152] The department had, in fact, insisted in the north-west on the "simplest and cheapest construction."[153]

Paget's 1908 report revealed the legacy of such a policy. The majority of the 21 schools he inspected were, like St. Paul's boarding school near Cardston, Alberta, "quite unfit for the purpose it is being used", with faulty heating, drainage and ventilation. The schools were "not modern in any respect." Moreover, his comments drew out what had become a tragic commonplace in the department — the connection between the condition of the buildings and disease, particularly the scourge of tuberculosis.[154] From early in the history of the system, alarming health reports had come into the department from local officials and doctors tracing out a pattern of interwoven factors contributing to "the present very high death rate from this disease": overcrowding, lack of care and cleanliness and poor sanitation.[155]

Overcrowding, the most critical dynamic in the spread of tuberculosis, was systemic,[156] a predictable outcome of underfunding and of the per capita grant arrangement that put a premium on each student taken from a community. Senior church officials lobbied the government constantly not only for higher rates but for implementation of a compulsory education regime that would ensure that the schools earned the maximum grant possible.[157] For their part, the principals, unable to make ends meet, as rates were rarely increased to the level of real costs,

pushed to have their authorized enrolments raised. The pressure to keep schools full meant there was a tendency to take as many children as possible, often going past wise limits, with disastrous consequences.[158] This led to bizarre recruitment techniques, including, local officials reported, "bribing and kidnapping".[159] As well, officials were not very careful about the health of the children they brought into the schools. The Anglican Bishop of Caledonia in British Columbia admitted candidly, "The per capita grant system encourages the taking in of those physically and intellectually unfit simply to keep up numbers".[160]

The impact of Bryce's report, submitted in 1907, which in part only repeated what was already in departmental files, stemmed from his statistical profile of the extent of tuberculosis among children in western schools. It became the stuff of headlines and critical editorial comment. *Saturday Night* concluded that "even war seldom shows as large a percentage of fatalities as does the education system we have imposed upon our Indian wards."[161] The percentage was indeed shocking. Bryce's death toll for the 1,537 children in his survey of 15 schools was 24 per cent, and this figure might have risen to 42 per cent if the children had been tracked for three years after they returned to their reserves.[162] The rate varied from school to school going as high as 47 per cent at Old Sun's on the Blackfoot reserve. Kuper Island school in British Columbia, which was not included in Bryce's sample, had a rate of 40 per cent over its 25-year history.[163] While a few officials and churchmen rejected Bryce's findings and attacked him as a "medical faddist",[164] most had to agree with him,[165] and no less an authority than Scott asserted that, system-wide, "fifty per cent of the children who passed through these schools did not live to benefit from the education which they had received therein."[166]

Not only was this, in the words of *Saturday Night*, "a situation disgraceful to the country",[167] but in the opinion of S.H. Blake, QC, who assisted in negotiations for the 1911 contracts, because the department had done nothing over the decades "to obviate the preventable causes of death, [it] brings itself within unpleasant nearness to the charge of manslaughter."[168] The churches too bore responsibility for what Bryce characterized, in a pamphlet published in 1922, as a "national crime",[169] but the department had a special responsibility. In the order in council of 1892 and in the 1911 contracts, it had taken to itself the authority to set standards and had instituted a regulation requiring that prospective students receive a health certificate signed by a doctor. This check, which would supposedly prevent tubercular children being taken into the schools, was — like so many other regulations relating to care of the children, such as those regarding clothes, food and discipline — implemented carelessly by the department and ignored by many school and departmental officials. Such laxity even continued, Scott admitted, in the decades after Bryce's report.[170]

Indeed, in those decades, almost nothing was done about tuberculosis in the schools, so that Bryce's charge that "this trail of disease and death has gone on almost unchecked by any serious efforts on the part of the Department of Indian Affairs",[171] was sorrowfully correct. The department did not even launch a full investigation of the system. Again the explanation for this

persistent carelessness was, in part, the government's refusal to fund the schools adequately to carry out a program of renovations to improve health conditions, which senior officials themselves proposed, or to undertake special measures, recommended by health authorities, to intervene in the case of sick children.[172] In a number of instances it did implement, because it was relatively cheap, a radical course of action — mass surgery, performed on school tables, to remove teeth, tonsils and adenoids, believed to be the frequent seats of infection.[173] Not surprisingly, conditions did not improve; schools in 1940 were still not being maintained "in a reasonable state",[174] and the few reports extant on the health of the children, which are scattered and sketchy (for the department never set up a procedure to monitor health) point to the continuation of alarmingly high rates of infection.[175]

The dramatic tuberculosis story, which chronicles what Bryce suggested was the government's "criminal disregard" for the "welfare of the Indian wards of the nation",[176] cannot be allowed to distract attention from the fact that the care of the children in almost every other area was also tragically substandard. Throughout the history of the system many children were, as the principal of St. George's testified in 1922, "ill-fed and ill-clothed and turned out into the cold to work", trapped and "unhappy with a feeling of slavery existing in their minds" and with no escape but in "thought".[177]

It is difficult to assess how widespread neglect was in the area of food and clothing, for again the department had no reporting procedure, and there is evidence of a fair deal of duplicity on the part of the churches, or individual principals, anxious to make the most favourable impression. A comment in 1936 by A. Hamilton, a local departmental official, on the children at Birtle school, just outside Birtle, Manitoba, symbolizes the situation.

In fairness I want to add that all the children have good clothes but these are kept for Sundays and when the children go downtown — in other words when out where they can be seen, they are well dressed.[178]

Such deception was often quite deliberate. "To almost everything at Round Lake", one teacher admitted, "there are two sides, the side that goes in the report and that inspectors see, and the side that exists from day to day."[179] This phenomenon was widespread. It was common practice that when an official wanted to add weight to a school report, he introduced it with the remark, "There was no preparation made for my visit as I was quite unexpected."[180] When it was known the official was coming, the children could be and were cowed into answering questions about their care in the way school administrators wanted.[181]

Despite the duplicity, reports in departmental files from school staff, local agents and inspectors establish that the system did not guarantee that all children were always properly fed and clothed. Hunger was a permanent reality: the food was often "too meagre";[182] the fare was not appropriate "neither as to quantity or quality";[183] the children "were not given enough to eat especially meat";[184] the food supply was inadequate "for the needs of the

children"; the "vitality of the children is not sufficiently sustained from a lack of nutritious food, or enough of the same for vigorous growing children."[185]

The same files carry images of the children that disrupt Hamilton's picture of Sunday downtown dress at Birtle school: "I have never seen such patched and ragged clothing";[186] their "uniform is so old and so worn out that we do not dare show them to anyone";[187] the children "are not being treated at all good, nothing on their feet, etc.";[188] the children were "dirty and their clothes were disgraceful";[189] and "I never had in my school a dirtier, more ill-clad or more likeable class of little folk". The children had the most ridiculous outfits. The little girls go teetering around in pumps with outlandish heels, sizes too large, or silly little sandals that wont stay on their feet — cheap lots that he [the principal] buys for next to nothing, or second hand misfits that come in bales.[190]

Those "second hand misfits that come in bales" signify that in these areas of care, the lack of funding by the government and the churches was yet again a major determinant in the treatment of the children. Whenever per capita rates were reduced or seen to be too low, someone was bound to point out that it would "render almost superhuman the task of feeding, clothing and treating the children in the manner required by the department."[191] It was often "utterly impossible" to do that "from the present per capita grant",[192] and thus principals took the tack of "economizing to the bone in every possible department."[193] In 1937, Hoey conceded that throughout the history of the system there had never been any connection between "our payments and the cost of feeding and clothing pupils from year to year" and that principals had been left on their own to deal with "the actual costs of operation."[194]

While the resultant 'economizing' may have meant no more than charity clothes in some cases, in terms of food, the consequences were more drastic and damaging to the education and health of the children. To keep costs down, administrators strove to produce food and income from the school farm or orchard — an undertaking in which the children, in Scott's description of Qu'Appelle, were "simply used as so much manpower to produce revenue."[195] As his comment suggests, the department was fully aware of the situation and, indeed, of the way it undercut the education program, in some instances, as at Birtle, turning it on its head. Hamilton commented, after visiting the school, that "The farm should be operated for the school — not the school for the farm."[196] Agent W. Graham's 1916 review of school records at Qu'Appelle found that, owing to work, the boys were in class so infrequently that "the main idea and object of the school is being entirely neglected" and that the school had become a "workhouse".[197] This practice continued until 1951 when the half-day system was abandoned. At Morley school in Saskatchewan the inspector reported that, to the detriment of their education, the principal threw "a large burden of the institutional drudgery on to the children."[198]

Underfunding, short rations and overwork contributed, doctors and agents across the system reported, to the children's ill-health, and some doctors even alerted the department to a connection they observed between malnutrition and tuberculosis.[199] Furthermore,

the range and quality of food the children did receive was affected by efforts to economize. It was a widespread practice "to sell most of the milk and eggs...in order to augment maintenance funds".[200] Inspector R.H. Cairns was so disturbed by this practice in the British Columbia schools, and in particular by milk skimming to collect cream for sale, that he declared, "if I had my way I would banish every separator....The pupils need the butter fat so much."[201]

By many departmental accounts, the variety of food served was limited; "decidedly monotonous" was the way Benson described the "regulation school meal" in 1897 — "bread and drippings or boiled beef and potatoes".[202] In fact, there appears to have been a persistent shortage of meat and fish which, unlike grains and vegetables, were difficult to secure in bulk and to store.[203] Ironically, children entering a school likely left behind a better diet, provided by communities still living on the land, than what was provided by the churches and the department.

Unfortunately, it is impossible to assess the nutritional value of school diets before 1946. In that year, however, the nutrition division of the department of national health and welfare surveyed the food services at eight schools. Though the department characterized the results as "fairly satisfactory", the report itself did not support such a conclusion but rather confirmed the impressions given by the files throughout the history of the system. The dietitians found that "mediocre" salaries secured kitchen staff who were "unqualified", carried out their "work in a careless and uninterested fashion" and thus "the food quality was not good". Poor menu planning that failed to recognize the nutritional value of certain foods, equipment that was "unfit", "antiquated cooking facilities", and bad cooking practices contributed to the "nutritional inadequacy of the children's diet", which lacked sufficient amounts of vitamins A, B and C. The children received too little meat and not enough green vegetables, whole grains, fruit, juices, milk, iodized salt and eggs.[204]

The dietitians laid much of the blame for the conditions they described on "financial limitations" — the same limitations that plagued every other aspect of the system and always led in the end to neglect of the children. With the benefit of hindsight, Davey's 1968 review of the system up to 1950 acknowledged that fact. Neither the churches nor the department, he charged, appeared to have had any real understanding of the needs of the children....The method of financing these institutions by per capita grants was an iniquitous system which made no provision for the establishment and maintenance of standards, even in such basic elements as staffing, food and clothing.[205]

All that was to have changed in 1957, when the department brought an end to the per capita system and placed the schools on a "controlled cost basis" intended to achieve "greater efficiency in their operation" as well as to assure proper "standards of food, clothing and supervision at all schools." This system was formalized by new contracts with the churches signed in 1961. The government was prepared to "reimburse each school for actual expenditures within certain limitations."[206] Those limitations were

translated into allowances — maximum rates set for teachers' salaries, transportation, extra-curricular activities, rental costs, building repairs and maintenance, and capital costs.

In terms of standards of care, the department strove to bring the budgeting process more into line with the children's needs and regional cost differentials. In particular, with food and clothing, it attempted "to make special provision for the requirements of older children." Thus in calculating the allowances for food and clothes, the children were divided into two groups, those in grade 6 and lower grades and those in grade 7 or higher grades, with appropriate rates assigned to each.[207] In addition, as early as 1953, the department began to issue directives to the schools on issues of care, and more detailed reporting procedures by principals were developed.

None of this was enough, however, to prevent a continuation of problems still endemic in the system. The post-1957 record of the controlled cost system was not an improvement over the previous decades. There was in fact an underlying contradiction between the intention to close down the system and that of keeping the schools in peak physical condition. Davey himself signalled this in recommending that "expenditures should be limited to emergency repairs which are basic to the health and safety of the children" in cases "where closure is anticipated, due to integration".[208] Budgeting favoured integration, which was at the centre of the department's education strategy. In a detailed brief to the department in 1968, the national association of principals and administrators of Indian residences pointed out that in the allocation of funds, the integration program received a much greater proportion, resulting in a situation where "our Federal schools are sadly neglected when compared with the Provincial schools."[209] Indeed, a report commissioned by the department established in 1967 that the funding level was still very "low in comparison with most progressive institutional programs" in the United States and in the provincial sector.[210]

The principals' association went on to detail the effects of underfunding in a school-by-school survey that echoed the Paget report — a long system-wide catalogue of deferred maintenance, hazardous fire conditions, inadequate wiring, heating and plumbing, and much needed capital construction to replace structures that were "totally unsuitable and a disgrace to Indian affairs". Even schools built since the war to serve communities in areas outside the scope of integration gave evidence of faulty construction and inadequate recreation, residence and classroom space. In conclusion, the association tried to impress upon the department the seriousness of the situation. It was not prepared to accept the "old cliche: lack of funds". That was "not an excuse, nor an explanation for we know that funds do exist."[211]

In a memo from Davey forwarded to the deputy minister along with the association's brief, he admitted that,

Although I can take exception to some of the examples given in the brief, the fact remains that we are not meeting requirements as we should nor have we provided the facilities which are required for

the appropriate functioning of a residential school system.[212]

It was impossible to do so, for there were simply "too many of these units" and the department was too heavily committed in other areas of higher priority — in community development, integration and welfare expenditures. Nor did he think it was wise to devote effort to achieving increased appropriations for, with "the best interests of the Indian children" in mind, it was more sensible to close the system down.[213]

The deputy minister, J.A. Macdonald, followed this line in his reply to the principals. There was no attempt to refute their characterization of the condition of the system. The department had failed, he conceded, to carry out "necessary repairs and renovations and capital projects". This had been "simply due to financial limitations", which he was sure, taking refuge in the "old cliche", would not improve in the future.[214] In the final analysis, however, the funds were inadequate and, as the association asserted, it was always the children who were "the first to feel the pinch of departmental economy".[215]

Schools that were part of the northern affairs system after 1955 had their own doleful history and were not above the sort of critique made by the principals' association. A harsh review of the operation of Fort Providence school concluded with the remark, "I would sooner have a child of mine in a reform school than in this dreadful institution."[216] As in the south, the system did not ensure that adequate food and clothing and safe and healthy conditions were provided for all the children all the time. There was always, as at the Tent Hostel at Coppermine, for example, some considerable distance between intention and reality. One of the teachers there submitted a remarkable report on a hostel term during which the staff and Inuit children had had a "satisfactory and happy experience", despite the fact that their accommodations were "very cold because all the heat escaped through the chimneys, there was a constant fire hazard", the children's clothes were "unsatisfactory", and the children received a most non-traditional diet of corn beef and cabbage at most dinners, while the staff ate their "monthly fresh food supply" at the same table, so as to give "the youngsters an opportunity to model their table manners from those of the staff".[217] A consulting psychologist, after a visit to the Churchill Vocational Centre, which was housed in an army barracks, commented that "I know what a rat must feel when it is placed in a maze." When he moved on to two schools in the Keewatin area, he found the buildings equally unsuitable.[218]

The history of Indian affairs' post-1957 determination to ensure high standards of care was no brighter than its record of repair and maintenance. At the end of the very first year of the operation of the controlled cost system, the department, on the advice of the churches and the nutrition division of the federal health department, had to raise rates, adjust the grade divisions and introduce a supplementary allowance to recognize additional costs for schools "where climatic conditions necessitate special clothing."[219] Such fine tuning became a permanent feature of the 1957 system. It was, unfortunately, always fruitless, for the funds provided by the department to feed and clothe the children

continually lagged behind increases in cost, and thus the sorrowful consequences for the children went unrelieved.[220]

There was no improvement after 1969, when the government and the churches parted ways and the department took direct control of the system. A subsequent survey in the Saskatchewan region revealed that allowances were not adequate to provide proper clothes, especially for children in hostels who were attending provincial schools, or food or recreational activities. One administrator reported that he had to serve "more often than we should food such as hot dogs, bologna, garlic sausages, macaroni etc....the cheapest food on the market and still I can hardly make it."[221] Most of the others in the survey — and by implication most administrators and, therefore, most children in the system — were having the same experience.[222]

As in the case of tuberculosis, failure to provide adequate nutrition was rooted not only in the iniquitous per capitas and chronic underfunding, but in the fact that departmental regulations intended to guarantee good care were administrative fictions. From the beginning of the system, and subsequently in the order in council of 1892 and the 1911 contracts, the department stipulated that to receive funds schools had to be "kept up to a certain dietary [standard]"[223] — a regulated scale of rations outlining the foodstuffs and the amounts children were to receive weekly. This engendered considerable controversy between the department and the churches over the adequacy of the scale, how realistic it was given the level of grants, and the degree to which the principals adhered to it.[224] In fact, the 'dietary' was largely ignored by everyone, including the department which did not, according to Benson, inspect the schools on any regular basis.[225] Benson even repudiated the scale, explaining in 1904 that "it is not now and was never enforced" and that it was only ever a "guide...to arrive at the cost of feeding pupils."[226] Thereafter, any pretence that there was actually an enforceable regulation was abandoned and, in 1922, the churches and principals were given responsibility for drawing up their own meal plans, which the department was willing to submit to the "Health Department in Ottawa for their criticism."[227]

In subsequent decades, the department's relationship with nutrition services at the department of health remained purely consultative, with consultations being so irregular that the service told Indian affairs in 1954 that they had "almost lost touch with most of the residential schools due to the lack of requests for our services."[228] After 1957, the inspection service expanded, inspections became more regular, and food allowances were "established to provide a standard equivalent to the diet recommended by Canada's Food Rules".[229]

What did not change however, was the department's lax manner of responding to recommendations in inspection reports. Like the dietary standards of the earlier part of the century, they were not enforced but routinely passed along to principals with no more than a suggestion that everything be done "that can be done to live up to the recommendations of the dietician." Problems were thrown back into the laps of principals, who were to "see what can be done about them in a constructive way."[230] Despite the department's

regulatory authority, which tied grants to the maintenance of standards, there was no stern intervention on behalf of the children, so that even the most egregious neglect by church authorities and principals could drag on unresolved for years.[231] In light of such careless management, what Hamilton wrote of Elkhorn school in 1944 might stand as the motto of the system: "It is not being operated, it is just running."[232]

In reviewing the long administrative and financial history of the system — the way the vision of residential education was made real — there can be no dispute: the churches and the government did not, in any thoughtful fashion, care for the children they presumed to parent. While this is traceable to systemic problems, particularly the lack of financial resources, the persistence of those problems and the unrelieved neglect of the children can be explained only in the context of another deficit — the lack of moral resources, the abrogation of parental responsibility. The avalanche of reports on the condition of children — hungry, malnourished, ill-clothed, dying of tuberculosis, overworked — failed to move either the churches or successive governments past the point of intention and on to concerted and effective remedial action.

Neglect was routinely ignored, and without remedial action, it became a thoughtless habit. It was, however, only one part of a larger pattern of church and government irresponsibility writ more starkly in the harsh discipline, cruelty and abuse of generations of children taken into the schools. Here, too, the record is clear. When senior officials in the department and the churches became aware of cases of abuse, they failed routinely to come to the rescue of children they had removed from their real parents or, as they claimed ironically in the case of Category 3, children they had rescued from situations of neglect in communities.

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2. Systemic Neglect: Administrative and Financial Realities

In any evaluation of the residential school record throughout its long history, a persistent reality appears amidst shifting vision and policies. Not only did the system fail to transport Aboriginal children through the classroom to the desired assimilative destination — or even, as Davey's 1968 record witnessed, to provide adequate levels of education — it failed to cherish them. In the building, funding and management of those purported "circles of civilized conditions", it failed to make of those schools homes where children would always be well-clothed and fed, safely housed and kindly treated. Even in the post-war period, administrative and financial reforms adopted in the midst of the general reorganization of Aboriginal education could not retrieve the situation and did not reverse the chronic neglect of the system, which forced children to live in conditions and endure levels of care that fell short of acceptable standards.

The persistently woeful condition of the school system and the too often substandard care of the children were rooted in a number of factors: in the government's and churches' unrelieved underfunding of the system, in the method of financing individual schools, in the failure of the department to exercise adequate oversight and control of the schools, and in the failure of the department and the churches to ensure proper treatment of the children by staff. Those conditions constituted the context for the neglect, abuse and death of an incalculable number of children and for immeasurable damage to Aboriginal communities.

This is not the story of an aging nineteenth century structure falling into decay but of flaws, inherent in the creation and subsequent management of the system, that were never remedied. From Confederation, with two schools in operation, the system grew at the rate of some two schools a year, so that by 1904 there were 64 schools. Such growth was not the product of forethought, of a developmental strategy controlled by the government or by the department of Indian affairs. Rather it was the product of federal reactions to the force of missionary efforts across the country and the considerable force of the churches' political influence in Ottawa by which they secured funds to operate the schools.[132] No better summary of the process of building the system can be given than that contained in a departmental briefing to the minister, Charles Stewart, in 1927: "It thus happens that Churches have been pioneers in the remote parts of the country, and with missionary funds have put up buildings and induced the department to provide

funds for maintenance."[133]

Though its senior officials were themselves dedicated to the concept of residential education, the department was in a sense driven before a whirlwind of missionary activity. No matter which way it turned — in the west, the north and into British Columbia — as it moved to implement Davin's industrial school design, the department found schools already constructed and holding classes for children. By 1907 — with 77 schools on the books, the great majority of them established by the churches, and with no sign of the flood of new schools or church petitions for support waning — the senior clerk in the education section, Martin Benson, proclaimed, with evident exasperation, "The clergy seem to be going wild on the subject of Indian education and it is time some limit should be fixed as to their demands."[134]

Indeed, the department had already tried, unsuccessfully, to bring the system, especially its rapidly rising costs, under control. By order in council in 1892, the department introduced what Vankoughnet termed a "correct principle" — a per capita grant arrangement that remained in force until 1957.[135] This principle was attractive because, in theory at least, it would enable the department to "know exactly where we stand", limiting the federal contribution to the schools to a fixed annual figure tied to enrolments.[136]

This attempt by the department to "relieve the pressure of present expenditure" and to institute "economical management" on the part of the churches, to quote the order in council, was a total failure. In limiting the liability of the department, the per capita system automatically threw an increased financial burden onto the shoulders of the churches. In the case of schools where the per capita grant did not meet a large enough part of the operating costs, which were impossible to standardize owing to the differing circumstances of schools — location, access to supplies, the availability of students — or where school management continued to be faulty, churches soon claimed that their funds were oversubscribed. They returned to Ottawa, cap in hand, for additional funding and yearly made demands for increases in per capita rates. By 1904, the collective deficit was $50,000 and rising, and the auditor general demanded yet tighter control — "A rigid inspection of financial affairs should be made on behalf of the government at least once a year."[137]

The auditor general was not alone in pushing for reform. In 1906 the Protestant churches submitted their Winnipeg Resolutions, drawn up at a conference on education. These reiterated demands they had been making each year for increased per capitas, upgrading of schools at government expense, and increased allocations for teachers' salaries.[138] The resolutions and the deputy superintendent general's admission that the financial ills of the system lay in underfunding[139] rather than, as the department charged constantly, in the inefficient and extravagant hands of church appointed principals, brought on the second attempt to bring order to the system. This took the form of contracts between the government and the churches, signed in 1911, in which, the minister promised,

the whole conduct and management of these schools would be covered...the responsibilities of each toward the other would be definitely fixed and the financial straits in which the churches found themselves...would in a measure be relieved by the Government.[140]

The minister was as good as his word — in part. New, higher per capita rates, recognizing regional cost differences, were adopted,[141] and the contracts dealt with the obligations of the churches and the government, establishing the department as senior partner in the joint management of the schools. It had primary responsibility for setting standards of care and education, including the appointment and dismissal of teachers, and it reserved the right to cancel the contract pertaining to any school not being operated according to the regulations it formulated. To that end, the churches had to hold the schools ready for inspection by the department.[142]

The contracts were meant to mark a new beginning for the system, laying the basis for "improved relations" between the department and the churches that were in turn to result "in benefit to the physical condition and intellectual advancement of the Indian children."[143] Such hopeful predictions were not, however, the substance of effective reform. The system soon fell back into funding and management difficulties. The contracts were to be reviewed and renewed at the end of five years, but they never were and without any legal agreement to bind the parties, they drifted back into the previous "unbusinesslike lack of arrangement"[144] and into discord over operation of the system.

On the financial front, government intentions were overborne by a long string of excuses for continued underfunding. The First World War and then the Depression prevented significant increases or clawed back, in whole or part, those the department was able to allocate.[145] While the Second World War pulled the country out of the Depression, it also meant cuts "to almost every appropriation"[146] and made the department realize that "it would be exceedingly difficult to secure the funds necessary...at any time during the years that lie ahead of us."[147]

As a result, there were never enough funds in the pre-Second World War era to satisfy the appetite of the churches or to prevent them from again encountering substantial deficits.[148] While the department publicly contested the churches' assertion of how desperate the financial situation was, privately it had its own figures that demonstrated dramatically that the per capita, pegged at $180 in 1938, was "exceptionably low" and inadequate for the needs of the children, particularly in relation to the funding of other residential care facilities. Hoey informed the deputy superintendent general, H. McGill, that the province of Manitoba provided grants of $642 and $550 per capita respectively to the School for the Deaf and the School for Boys. Private institutions in the province were also funded more generously. The Knowles School for Boys received $362 for each boy from the Community Chest, and the Catholic church provided St. Norbert's Orphanage with $294 per capita. The residential schools fared no better in comparison with funding for similar institutions in the United States, where the Child

Welfare League of America estimated that the average per capita grant of large child care institutions was $541, with smaller ones running only as low as $313.[149]

The cumulative weight of underfunding of the system throughout this period, which pressed down on the balance books of the churches and the department and drove individual schools into debt, was nothing compared to its consequences for the schools and their students. Badly built, poorly maintained and overcrowded, the schools' deplorable conditions were a dreadful weight that pressed down on the thousands of children who attended them. For many of those children it proved to be a mortal weight. Scott, reviewing the history of the system for the new minister, Arthur Meighen, in 1918, noted that the buildings were "undoubtedly chargeable with a very high death rate among the pupils."[150]

When the churches and the department signed the 1911 contracts, it was clear to all the partners that there was a crisis in the conditions and sanitation of the schools and, therefore, in the health of the children. They could not have failed to know it for they had at hand two reports, one by the department's chief medical officer, Dr. P.H. Bryce, outlining in a most sensational manner the tragic impact of tuberculosis on the children, and another by a departmental accountant, F.H. Paget, who had been detailed to survey the condition of the schools in the west.

Throughout the initial stages of the unrestrained building of the system, the department had been, Duncan Campbell Scott admitted, "intensely apprehensive" about the quality and safety of the schools, which the churches routinely "erected on very primitive plans".[151] According to an assessment of the system by Martin Benson in 1897, the department's own record was not a great deal better. Many of the buildings it was responsible for constructing, in association with the department of public works, had "been put up without due regard for the purpose for which they would be required, hurriedly constructed of poor materials, badly laid out without due provision for lighting, heating or ventilating."[152] The department had, in fact, insisted in the north-west on the "simplest and cheapest construction."[153]

Paget's 1908 report revealed the legacy of such a policy. The majority of the 21 schools he inspected were, like St. Paul's boarding school near Cardston, Alberta, "quite unfit for the purpose it is being used", with faulty heating, drainage and ventilation. The schools were "not modern in any respect." Moreover, his comments drew out what had become a tragic commonplace in the department — the connection between the condition of the buildings and disease, particularly the scourge of tuberculosis.[154] From early in the history of the system, alarming health reports had come into the department from local officials and doctors tracing out a pattern of interwoven factors contributing to "the present very high death rate from this disease": overcrowding, lack of care and cleanliness and poor sanitation.[155]

Overcrowding, the most critical dynamic in the spread of tuberculosis, was systemic,[156] a predictable outcome of underfunding and of the per capita grant arrangement that put a

premium on each student taken from a community. Senior church officials lobbied the government constantly not only for higher rates but for implementation of a compulsory education regime that would ensure that the schools earned the maximum grant possible.[157] For their part, the principals, unable to make ends meet, as rates were rarely increased to the level of real costs, pushed to have their authorized enrolments raised. The pressure to keep schools full meant there was a tendency to take as many children as possible, often going past wise limits, with disastrous consequences.[158] This led to bizarre recruitment techniques, including, local officials reported, "bribing and kidnapping".[159] As well, officials were not very careful about the health of the children they brought into the schools. The Anglican Bishop of Caledonia in British Columbia admitted candidly, "The per capita grant system encourages the taking in of those physically and intellectually unfit simply to keep up numbers".[160]

The impact of Bryce's report, submitted in 1907, which in part only repeated what was already in departmental files, stemmed from his statistical profile of the extent of tuberculosis among children in western schools. It became the stuff of headlines and critical editorial comment. *Saturday Night* concluded that "even war seldom shows as large a percentage of fatalities as does the education system we have imposed upon our Indian wards."[161] The percentage was indeed shocking. Bryce's death toll for the 1,537 children in his survey of 15 schools was 24 per cent, and this figure might have risen to 42 per cent if the children had been tracked for three years after they returned to their reserves.[162] The rate varied from school to school going as high as 47 per cent at Old Sun's on the Blackfoot reserve. Kuper Island school in British Columbia, which was not included in Bryce's sample, had a rate of 40 per cent over its 25-year history.[163] While a few officials and churchmen rejected Bryce's findings and attacked him as a "medical faddist",[164] most had to agree with him,[165] and no less an authority than Scott asserted that, system-wide, "fifty per cent of the children who passed through these schools did not live to benefit from the education which they had received therein."[166]

Not only was this, in the words of *Saturday Night*, "a situation disgraceful to the country",[167] but in the opinion of S.H. Blake, QC, who assisted in negotiations for the 1911 contracts, because the department had done nothing over the decades "to obviate the preventable causes of death, [it] brings itself within unpleasant nearness to the charge of manslaughter."[168] The churches too bore responsibility for what Bryce characterized, in a pamphlet published in 1922, as a "national crime",[169] but the department had a special responsibility. In the order in council of 1892 and in the 1911 contracts, it had taken to itself the authority to set standards and had instituted a regulation requiring that prospective students receive a health certificate signed by a doctor. This check, which would supposedly prevent tubercular children being taken into the schools, was — like so many other regulations relating to care of the children, such as those regarding clothes, food and discipline — implemented carelessly by the department and ignored by many school and departmental officials. Such laxity even continued, Scott admitted, in the decades after Bryce's report.[170]

Indeed, in those decades, almost nothing was done about tuberculosis in the schools, so that Bryce's charge that "this trail of disease and death has gone on almost unchecked by any serious efforts on the part of the Department of Indian Affairs",[171] was sorrowfully correct. The department did not even launch a full investigation of the system. Again the explanation for this persistent carelessness was, in part, the government's refusal to fund the schools adequately to carry out a program of renovations to improve health conditions, which senior officials themselves proposed, or to undertake special measures, recommended by health authorities, to intervene in the case of sick children.[172] In a number of instances it did implement, because it was relatively cheap, a radical course of action — mass surgery, performed on school tables, to remove teeth, tonsils and adenoids, believed to be the frequent seats of infection.[173] Not surprisingly, conditions did not improve; schools in 1940 were still not being maintained "in a reasonable state",[174] and the few reports extant on the health of the children, which are scattered and sketchy (for the department never set up a procedure to monitor health) point to the continuation of alarmingly high rates of infection.[175]

The dramatic tuberculosis story, which chronicles what Bryce suggested was the government's "criminal disregard" for the "welfare of the Indian wards of the nation",[176] cannot be allowed to distract attention from the fact that the care of the children in almost every other area was also tragically substandard. Throughout the history of the system many children were, as the principal of St. George's testified in 1922, "ill-fed and ill-clothed and turned out into the cold to work", trapped and "unhappy with a feeling of slavery existing in their minds" and with no escape but in "thought".[177]

It is difficult to assess how widespread neglect was in the area of food and clothing, for again the department had no reporting procedure, and there is evidence of a fair deal of duplicity on the part of the churches, or individual principals, anxious to make the most favourable impression. A comment in 1936 by A. Hamilton, a local departmental official, on the children at Birtle school, just outside Birtle, Manitoba, symbolizes the situation.

In fairness I want to add that all the children have good clothes but these are kept for Sundays and when the children go downtown — in other words when out where they can be seen, they are well dressed.[178]

Such deception was often quite deliberate. "To almost everything at Round Lake", one teacher admitted, "there are two sides, the side that goes in the report and that inspectors see, and the side that exists from day to day."[179] This phenomenon was widespread. It was common practice that when an official wanted to add weight to a school report, he introduced it with the remark, "There was no preparation made for my visit as I was quite unexpected."[180] When it was known the official was coming, the children could be and were cowed into answering questions about their care in the way school administrators wanted.[181]

Despite the duplicity, reports in departmental files from school staff,

local agents and inspectors establish that the system did not guarantee that all children were always properly fed and clothed. Hunger was a permanent reality: the food was often "too meagre";[182] the fare was not appropriate "neither as to quantity or quality";[183] the children "were not given enough to eat especially meat";[184] the food supply was inadequate "for the needs of the children"; the "vitality of the children is not sufficiently sustained from a lack of nutritious food, or enough of the same for vigorous growing children."[185]

The same files carry images of the children that disrupt Hamilton's picture of Sunday downtown dress at Birtle school: "I have never seen such patched and ragged clothing";[186] their "uniform is so old and so worn out that we do not dare show them to anyone";[187] the children "are not being treated at all good, nothing on their feet, etc.";[188] the children were "dirty and their clothes were disgraceful";[189] and "I never had in my school a dirtier, more ill-clad or more likeable class of little folk". The children had the most ridiculous outfits. The little girls go teetering around in pumps with outlandish heels, sizes too large, or silly little sandals that wont stay on their feet — cheap lots that he [the principal] buys for next to nothing, or second hand misfits that come in bales.[190]

Those "second hand misfits that come in bales" signify that in these areas of care, the lack of funding by the government and the churches was yet again a major determinant in the treatment of the children. Whenever per capita rates were reduced or seen to be too low, someone was bound to point out that it would "render almost superhuman the task of feeding, clothing and treating the children in the manner required by the department."[191] It was often "utterly impossible" to do that "from the present per capita grant",[192] and thus principals took the tack of "economizing to the bone in every possible department."[193] In 1937, Hoey conceded that throughout the history of the system there had never been any connection between "our payments and the cost of feeding and clothing pupils from year to year" and that principals had been left on their own to deal with "the actual costs of operation."[194]

While the resultant 'economizing' may have meant no more than charity clothes in some cases, in terms of food, the consequences were more drastic and damaging to the education and health of the children. To keep costs down, administrators strove to produce food and income from the school farm or orchard — an undertaking in which the children, in Scott's description of Qu'Appelle, were "simply used as so much manpower to produce revenue."[195] As his comment suggests, the department was fully aware of the situation and, indeed, of the way it undercut the education program, in some instances, as at Birtle, turning it on its head. Hamilton commented, after visiting the school, that "The farm should be operated for the school — not the school for the farm."[196] Agent W. Graham's 1916 review of school records at Qu'Appelle found that, owing to work, the boys were in class so infrequently that "the main idea and object of the school is being entirely neglected" and that the school had become a "workhouse".[197] This practice continued until 1951 when the half-day system was abandoned. At Morley school in Saskatchewan the inspector reported that, to the detriment of their education, the principal threw "a large burden of the institutional

drudgery on to the children."[198]

Underfunding, short rations and overwork contributed, doctors and agents across the system reported, to the children's ill-health, and some doctors even alerted the department to a connection they observed between malnutrition and tuberculosis.[199] Furthermore, the range and quality of food the children did receive was affected by efforts to economize. It was a widespread practice "to sell most of the milk and eggs...in order to augment maintenance funds".[200] Inspector R.H. Cairns was so disturbed by this practice in the British Columbia schools, and in particular by milk skimming to collect cream for sale, that he declared, "if I had my way I would banish every separator....The pupils need the butter fat so much."[201]

By many departmental accounts, the variety of food served was limited; "decidedly monotonous" was the way Benson described the "regulation school meal" in 1897 — "bread and drippings or boiled beef and potatoes".[202] In fact, there appears to have been a persistent shortage of meat and fish which, unlike grains and vegetables, were difficult to secure in bulk and to store.[203] Ironically, children entering a school likely left behind a better diet, provided by communities still living on the land, than what was provided by the churches and the department.

Unfortunately, it is impossible to assess the nutritional value of school diets before 1946. In that year, however, the nutrition division of the department of national health and welfare surveyed the food services at eight schools. Though the department characterized the results as "fairly satisfactory", the report itself did not support such a conclusion but rather confirmed the impressions given by the files throughout the history of the system. The dietitians found that "mediocre" salaries secured kitchen staff who were "unqualified", carried out their "work in a careless and uninterested fashion" and thus "the food quality was not good". Poor menu planning that failed to recognize the nutritional value of certain foods, equipment that was "unfit", "antiquated cooking facilities", and bad cooking practices contributed to the "nutritional inadequacy of the children's diet", which lacked sufficient amounts of vitamins A, B and C. The children received too little meat and not enough green vegetables, whole grains, fruit, juices, milk, iodized salt and eggs.[204]

The dietitians laid much of the blame for the conditions they described on "financial limitations" — the same limitations that plagued every other aspect of the system and always led in the end to neglect of the children. With the benefit of hindsight, Davey's 1968 review of the system up to 1950 acknowledged that fact. Neither the churches nor the department, he charged, appeared to have had any real understanding of the needs of the children....The method of financing these institutions by per capita grants was an iniquitous system which made no provision for the establishment and maintenance of standards, even in such basic elements as staffing, food and clothing.[205]

All that was to have changed in 1957, when the department brought an end to the per capita system and placed the schools on

a "controlled cost basis" intended to achieve "greater efficiency in their operation" as well as to assure proper "standards of food, clothing and supervision at all schools." This system was formalized by new contracts with the churches signed in 1961. The government was prepared to "reimburse each school for actual expenditures within certain limitations."[206] Those limitations were translated into allowances — maximum rates set for teachers' salaries, transportation, extra-curricular activities, rental costs, building repairs and maintenance, and capital costs.

In terms of standards of care, the department strove to bring the budgeting process more into line with the children's needs and regional cost differentials. In particular, with food and clothing, it attempted "to make special provision for the requirements of older children." Thus in calculating the allowances for food and clothes, the children were divided into two groups, those in grade 6 and lower grades and those in grade 7 or higher grades, with appropriate rates assigned to each.[207] In addition, as early as 1953, the department began to issue directives to the schools on issues of care, and more detailed reporting procedures by principals were developed.

None of this was enough, however, to prevent a continuation of problems still endemic in the system. The post-1957 record of the controlled cost system was not an improvement over the previous decades. There was in fact an underlying contradiction between the intention to close down the system and that of keeping the schools in peak physical condition. Davey himself signalled this in recommending that "expenditures should be limited to emergency repairs which are basic to the health and safety of the children" in cases "where closure is anticipated, due to integration".[208] Budgeting favoured integration, which was at the centre of the department's education strategy. In a detailed brief to the department in 1968, the national association of principals and administrators of Indian residences pointed out that in the allocation of funds, the integration program received a much greater proportion, resulting in a situation where "our Federal schools are sadly neglected when compared with the Provincial schools."[209] Indeed, a report commissioned by the department established in 1967 that the funding level was still very "low in comparison with most progressive institutional programs" in the United States and in the provincial sector.[210]

The principals' association went on to detail the effects of underfunding in a school-by-school survey that echoed the Paget report — a long system-wide catalogue of deferred maintenance, hazardous fire conditions, inadequate wiring, heating and plumbing, and much needed capital construction to replace structures that were "totally unsuitable and a disgrace to Indian affairs". Even schools built since the war to serve communities in areas outside the scope of integration gave evidence of faulty construction and inadequate recreation, residence and classroom space. In conclusion, the association tried to impress upon the department the seriousness of the situation. It was not prepared to accept the "old cliche: lack of funds". That was "not an excuse, nor an explanation for we know that funds do exist."[211]

In a memo from Davey forwarded to the deputy minister along with the association's brief, he admitted that,

Although I can take exception to some of the examples given in the brief, the fact remains that we are not meeting requirements as we should nor have we provided the facilities which are required for the appropriate functioning of a residential school system.[212]

It was impossible to do so, for there were simply "too many of these units" and the department was too heavily committed in other areas of higher priority — in community development, integration and welfare expenditures. Nor did he think it was wise to devote effort to achieving increased appropriations for, with "the best interests of the Indian children" in mind, it was more sensible to close the system down.[213]

The deputy minister, J.A. Macdonald, followed this line in his reply to the principals. There was no attempt to refute their characterization of the condition of the system. The department had failed, he conceded, to carry out "necessary repairs and renovations and capital projects". This had been "simply due to financial limitations", which he was sure, taking refuge in the "old cliche", would not improve in the future.[214] In the final analysis, however, the funds were inadequate and, as the association asserted, it was always the children who were "the first to feel the pinch of departmental economy".[215]

Schools that were part of the northern affairs system after 1955 had their own doleful history and were not above the sort of critique made by the principals' association. A harsh review of the operation of Fort Providence school concluded with the remark, "I would sooner have a child of mine in a reform school than in this dreadful institution."[216] As in the south, the system did not ensure that adequate food and clothing and safe and healthy conditions were provided for all the children all the time. There was always, as at the Tent Hostel at Coppermine, for example, some considerable distance between intention and reality. One of the teachers there submitted a remarkable report on a hostel term during which the staff and Inuit children had had a "satisfactory and happy experience", despite the fact that their accommodations were "very cold because all the heat escaped through the chimneys, there was a constant fire hazard", the children's clothes were "unsatisfactory", and the children received a most non-traditional diet of corn beef and cabbage at most dinners, while the staff ate their "monthly fresh food supply" at the same table, so as to give "the youngsters an opportunity to model their table manners from those of the staff".[217] A consulting psychologist, after a visit to the Churchill Vocational Centre, which was housed in an army barracks, commented that "I know what a rat must feel when it is placed in a maze." When he moved on to two schools in the Keewatin area, he found the buildings equally unsuitable.[218]

The history of Indian affairs' post-1957 determination to ensure high standards of care was no brighter than its record of repair and maintenance. At the end of the very first year of the operation of the controlled cost system, the department, on the advice of the churches and the nutrition division of the federal health

department, had to raise rates, adjust the grade divisions and introduce a supplementary allowance to recognize additional costs for schools "where climatic conditions necessitate special clothing."[219] Such fine tuning became a permanent feature of the 1957 system. It was, unfortunately, always fruitless, for the funds provided by the department to feed and clothe the children continually lagged behind increases in cost, and thus the sorrowful consequences for the children went unrelieved.[220]

There was no improvement after 1969, when the government and the churches parted ways and the department took direct control of the system. A subsequent survey in the Saskatchewan region revealed that allowances were not adequate to provide proper clothes, especially for children in hostels who were attending provincial schools, or food or recreational activities. One administrator reported that he had to serve "more often than we should food such as hot dogs, bologna, garlic sausages, macaroni etc....the cheapest food on the market and still I can hardly make it."[221] Most of the others in the survey — and by implication most administrators and, therefore, most children in the system — were having the same experience.[222]

As in the case of tuberculosis, failure to provide adequate nutrition was rooted not only in the iniquitous per capitas and chronic underfunding, but in the fact that departmental regulations intended to guarantee good care were administrative fictions. From the beginning of the system, and subsequently in the order in council of 1892 and the 1911 contracts, the department stipulated that to receive funds schools had to be "kept up to a certain dietary [standard]"[223] — a regulated scale of rations outlining the foodstuffs and the amounts children were to receive weekly. This engendered considerable controversy between the department and the churches over the adequacy of the scale, how realistic it was given the level of grants, and the degree to which the principals adhered to it.[224] In fact, the 'dietary' was largely ignored by everyone, including the department which did not, according to Benson, inspect the schools on any regular basis.[225] Benson even repudiated the scale, explaining in 1904 that "it is not now and was never enforced" and that it was only ever a "guide...to arrive at the cost of feeding pupils."[226] Thereafter, any pretence that there was actually an enforceable regulation was abandoned and, in 1922, the churches and principals were given responsibility for drawing up their own meal plans, which the department was willing to submit to the "Health Department in Ottawa for their criticism."[227]

In subsequent decades, the department's relationship with nutrition services at the department of health remained purely consultative, with consultations being so irregular that the service told Indian affairs in 1954 that they had "almost lost touch with most of the residential schools due to the lack of requests for our services."[228] After 1957, the inspection service expanded, inspections became more regular, and food allowances were "established to provide a standard equivalent to the diet recommended by Canada's Food Rules".[229]

What did not change however, was the department's lax manner of responding to recommendations in inspection reports. Like the

dietary standards of the earlier part of the century, they were not enforced but routinely passed along to principals with no more than a suggestion that everything be done "that can be done to live up to the recommendations of the dietician." Problems were thrown back into the laps of principals, who were to "see what can be done about them in a constructive way."[230] Despite the department's regulatory authority, which tied grants to the maintenance of standards, there was no stern intervention on behalf of the children, so that even the most egregious neglect by church authorities and principals could drag on unresolved for years.[231] In light of such careless management, what Hamilton wrote of Elkhorn school in 1944 might stand as the motto of the system: "It is not being operated, it is just running."[232]

In reviewing the long administrative and financial history of the system — the way the vision of residential education was made real — there can be no dispute: the churches and the government did not, in any thoughtful fashion, care for the children they presumed to parent. While this is traceable to systemic problems, particularly the lack of financial resources, the persistence of those problems and the unrelieved neglect of the children can be explained only in the context of another deficit — the lack of moral resources, the abrogation of parental responsibility. The avalanche of reports on the condition of children — hungry, malnourished, ill-clothed, dying of tuberculosis, overworked — failed to move either the churches or successive governments past the point of intention and on to concerted and effective remedial action.

Neglect was routinely ignored, and without remedial action, it became a thoughtless habit. It was, however, only one part of a larger pattern of church and government irresponsibility writ more starkly in the harsh discipline, cruelty and abuse of generations of children taken into the schools. Here, too, the record is clear. When senior officials in the department and the churches became aware of cases of abuse, they failed routinely to come to the rescue of children they had removed from their real parents or, as they claimed ironically in the case of Category 3, children they had rescued from situations of neglect in communities.

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Last 2006-02-08 Important Notices

Volume 1 - Looking Forward Looking Back
PART TWO False Assumptions and a Failed Relationship
Chapter 10 - Residential Schools

3. Discipline and Abuse

...the failure to regard the children as persons capable of responding to love.[233]

At the heart of the vision of residential education — a vision of the school as home and sanctuary of motherly care — there was a dark contradiction, an inherent element of savagery in the mechanics of civilizing the children. The very language in which the vision was couched revealed what would have to be the essentially violent nature of the school system in its assault on child and culture. The basic premise of resocialization, of the great transformation from 'savage' to 'civilized', was violent. "To kill the Indian in the child", the department aimed at severing the artery of culture that ran between generations and was the profound connection between parent and child sustaining family and community. In the end, at the point of final assimilation, "all the Indian there is in the race should be dead."[234] This was more than a rhetorical flourish as it took on a traumatic reality in the life of each child separated from parents and community and isolated in a world hostile to identity, traditional belief and language.

The system of transformation was suffused with a similar latent savagery — punishment. Prompt and persistent obedience to authority, order and discipline — what Davin referred to as "the restraints of civilization"[235] — were virtues of a civilized society, and in its homes, schools and judicial systems, punishment was one of its servants. Children removed from "permissive" Aboriginal cultures would be brought to civilization through discipline and punishment and would become, in the course of time, civilized parents able naturally to "exercise proper authority"[236] over the next generation of children. In the vision of residential education, discipline was curriculum and punishment an essential pedagogical technique. It could, one senior official advised, "produce circumstances to supplement and aid direct teaching." In fact, he continued, in terms of learning English, it "will lead to its acquirement more quickly than direct teaching."[237] Father Lacombe's experience in managing the High River industrial school in its first year of operation, 1884, a year in which almost all the children ran away or were removed by their parents, led him to conclude that "It is a mistake to have no kind of punishment in the Institution....It is absurd to imagine that such an institution in any country could work properly without some form of coercion to enforce order and obedience."[238]

Few principals would make that "mistake", and thus discipline and

punishment in the service of cultural change formed the context of the children's lives. At school, they lived by a meticulous regimen of early rising, working, worshipping, learning and, finally, resting. Punishment for "insubordination",[239] for transgressing that regime and thus challenging the authority of the schoolmasters was pervasive and to some observers poisonous. In 1936, G. Barry, district inspector of schools in British Columbia, described Alberni school on Vancouver Island, "where every member of staff carried a strap" and where "children have never learned to work without punishment."[240] Another critic, who saw the same negative implications of this tyranny of routinization, charged that at Mt. Elgin, "They learn to work under direction which doesn't require, and even discourages, any individual acting or thinking on their part. Punishment goes to those who don't keep in line."[241]

To "keep them in line", as Lacombe's successor at High River, Reverend E. Claude, explained, children could be deprived of food, confined or lectured. He tried to avoid "using too vigorous means with regard to the most rebellious tempers such as blows etc."[242] but he had no cause for concern on that score. Punishment, including striking children, was well within the bounds of non-Aboriginal community standards for most of the period covered by the history of the school system. Comments made by the deputy superintendent general, Vankoughnet, in 1889 on discipline — that "obedience to rules and good behavior should be enforced" by means including "corporal punishment"[243] — reflected such standards. There were, however, limits; there was always a line between acceptable chastisement and abuse. Children should not be, Hayter Reed stated in 1895, "whipped by anyone save the Principal", and if they were, "great discretion should be used and they should not be struck on the head, or punished so that bodily harm might ensue."[244]

Corporal punishment should not become, Reed thought, "a general measure of discipline";[245] inherent in the operation of the schools, however, was always the dangerous potential for just that eventuality — for not only the culture of corporal punishment instituted at Alberni and Mt. Elgin but also abuse, for situations in which deprivation verged on starvation, strapping became beating, and lecturing became the verbal abuse of ridicule and public indignity. For the staff, the schools were in many cases not peaceful or rewarding places to work; they were not havens of civilization. Rather they were, owing to the per capita grant system, sites of struggle against poverty and, of course, against cultural difference and, therefore, against the children themselves.

Isolated in distant establishments, divorced from opportunities for social intercourse, and placed in closed communities of co-workers with the potential for strained interpersonal relations heightened by inadequate privacy, the staff not only taught but supervised the children's work, play and personal care.[246] Their hours were long, the remuneration below that of other educational institutions, and the working conditions irksome. Thus the struggle against children and their culture was conducted in an atmosphere of considerable stress, fatigue and anxiety that may well have dulled the staff's sensitivity to the children's hunger, their ill-kempt look or their ill-health and often, perhaps inevitably, pushed the application of

discipline over the line into abuse and transformed what was to be a circle of care into a violent embrace. Although there were caring and conscientious staff, not every principal, teacher or employee was of the desired moral character; outside the gaze of public scrutiny, isolated from both Aboriginal and non-Aboriginal communities, schools were the opportunistic sites of abuse.

And abuse there was — identified as such by those inside the system, both in the churches and in the department. Head office, regional, school and church files are replete, from early in the system's history, with incidents that violated the norms of the day. In 1896, Agent D.L. Clink refused to return a child to the Red Deer school because he feared "he would be abused". Without ever being reprimanded by the principal, a teacher had beaten children severely on several occasions, one of whom had to be hospitalized. "Such brutality," Clink concluded, "should not be tolerated for a moment" and "would not be tolerated in a white school for a single day in any part of Canada."[247] A senior official in western Canada, David Laird, submitted a report on Norway House in 1907 detailing "frequent whippings" over an eight-year period of a young boy, Charlie Clines, for bedwetting. The "severity of his punishment" was not, Laird asserted, "in accordance with Christian methods."[248]

The result of Charlie Clines' punishment was what became an all too familiar episode. In "constant dread of the lash", Charlie finally fled. He slept out "in weather so severe that his toes were frozen and he...will lose them."[249] Hundreds of children ran away because, the assistant deputy of the department explained in 1917, of "frequent punishment" and "too much hard work" and "travelled through all sorts of hardships to reach their distant homes".[250] Many, however, did not make it to their communities and when the trail was followed back to the school from which an injured or dead child had fled, it led almost inevitably to conditions of neglect, mistreatment and abuse.[251] It was a commonplace within the system that, in the words of one local agent, "there is certainly something wrong as children are running away most of the time." Subsequent investigations would discover, not surprisingly, that "conditions at the school are not what they should be."[252]

This certainly was the case, for example, in two quite representative tragedies in British Columbia. In 1902, Johnny Sticks found his son, Duncan, dead of exposure, having fled from the Williams Lake industrial school. Nearly four decades later, in 1937 at the Lejac school, four boys ran away and were found frozen to death on the lake within sight of their community. They were wearing only summer-weight clothes. In both cases, investigations uncovered a history of neglect and violence in evidence given by staff, children and some graduates.

At the Williams Lake inquest, Christine Haines explained why she had run off twice in the past: "...the Sisters didn't treat me good — they gave me rotten food to eat and punished me for not eating it." She was locked in a room, fed bread and water and beaten "with a strap, sometimes on the face, and sometimes [they] took my clothes off and beat me — this is the reason I ran away." Other children, including Duncan's sister, made the same charges. The

sister responsible for the girls denied such brutal treatment but admitted that girls had been locked up, one for as long as 12 days.[253]

At Lejac, one graduate, Mrs. S. Patrick, recalled, "Even when we just smiled at one of the boys they gave us that much" — 30 strokes with the strap on each hand — and when they spoke their own language, the sister "made us take down our drawers and she strapped us on the backside with a big strap." At this school, too, food was an issue. Mrs. Patrick told the department's investigator, Indian commissioner D. MacKay, "Sometimes we ate worms in the meat, just beans sometimes and sometimes just barley." The new principal admitted that there had been a regime of severe punishment at the school but that he would bring the school into line with community norms and operate it, in regard to punishment, "along the line of the provincial public schools." MacKay's central recommendation was appropriate not only to the Lejac case but to the whole school system. "My investigation leads me to the conclusion that the department should take steps to strengthen its administrative control of our Indian Residential Schools through the full use of the privilege which it reserves of approving the more important appointments of these schools."[254] In 1937, this suggestion was long overdue. The system was out of control; its record of abuse had grown more sorrowful each decade, and it was, as MacKay implied, a problem the department had not dealt with.

MacKay was correct. Here again, as in other areas of care, the department laid claim to authority to establish standards — its "privilege" as MacKay termed it — then failed in its self-appointed responsibility. Scott himself had laid out that claim forcefully in 1921. In a letter to the principal of Crowfoot school, where a visiting nurse had discovered nine children "chained to the benches" in the dining room, one of them "marked badly by a strap", Scott stated that the department would not countenance "treatment that might be considered pitiless or jail-like in character." The children "are wards of this department and we exercise our right to ensure proper treatment whether they are resident in our schools or not."[255]

Unfortunately, Scott's word was not the department's bond. It did not exercise its right to "ensure proper treatment."[256] Senior officials had made pronouncements on discipline to individual principals[257] and Reed, when he was deputy superintendent general in 1895, had suggested that "Instructions should be given if not already sent to the Principals of the various schools."[258] But comprehensive regulations on the acceptable means and limits to punishments were never issued, despite requests by more junior departmental employees,[259] and thus principals and staff behaved largely as they saw fit. Children were frequently beaten severely with whips, rods and fists, chained and shackled, bound hand and foot and locked in closets, basements, and bathrooms, and had their heads shaved or hair closely cropped.[260]

There was more to this irresponsibility than simply a failure of regulation and oversight. There was a pronounced and persistent reluctance on the part of the department to deal forcefully with

incidents of abuse, to dismiss, as was its right, or to lay charges against school staff who abused the children. Part of that pattern was an abrogation of responsibility, the abandonment of the children who were "wards of the department"[261] to the churches, which in their turn failed to defend them from the actions of members of their own organizations.

All these factors are made clear in a series of cases in western Canada brought to the attention of the department by W. Graham, beginning with an incident at Crowstand school in 1907. Graham, then an inspector of Indian agencies, reported that Principal McWhinney had, when retrieving a number of runaway boys, "tied ropes about their arms and made them run behind the buggy from their houses to the school." Referring the matter to a senior member of the Presbyterian church, the department suggested that the principal be dismissed. The church refused, for its investigation had found no reason to fault the principal's action: he had, it was claimed, tied the boys to the wagon only because there was no room inside; the distance was only some eight miles, and the boys did not have to run the whole way, as "the horses trotted slowly when they did trot and they walked a considerable part of the way." The department greeted this response with the cynicism it deserved. Benson saw these "lame arguments" as an attempt to "whitewash McWhinney". The church held firm, however. Despite a continuing record of ill-treatment of children and rising opposition to the school on the part of parents — which led Scott to demand in 1914 that McWhinney be transferred — he was kept on.[262]

In 1919, Graham forwarded reports to the department from a local agent and a police constable describing the case of a runaway from the Anglican Old Sun's school. On being brought back, the boy had been shackled to a bed, had his hands tied, and was "most brutally and unmercifully beaten with a horse quirt until his back was bleeding". The accused, P.H. Gentlemen, admitted using a whip and shackles and that the boy "might have been marked." Again, the department turned to the church for its 'advice'. Canon S. Gould, the general secretary of the Missionary Society, mounted a curious defence — such a beating was the norm "more or less, in every boarding school in the country." Scott accepted this, and Gentlemen remained at the school. Graham was irate, writing to Scott that "instead of placing this man in a position of responsibility, where he might repeat his disgraceful acts, he should have been relieved of his duties."[263]

In 1924, Graham brought forward another incident — the beating of a boy until he was "black from his neck to his buttocks" at the Anglican MacKay school in Manitoba. When he learned that the department had turned over investigation of the case to the church, Graham's reaction showed just how ingrained and corrosive this practice had become. "Chances are", he wrote, "it will end like all the other cases" and thus would undermine further the vigilance of local departmental staff, as they believed that "where the churches are concerned there is no use sending an adverse report, as the department will listen to excuses from incompetent Principals of the schools more readily than to a report from our Inspectors based on the facts as they find them."[264]

Unfortunately, Graham was proved right. The agent, J. Waddy, confirmed in a letter to Scott that the punishment of this boy, and indeed of others by the principal, Reverend E. Bird, had been excessive. Bird admitted that he had marked the boy, but the church exonerated him, and the department let the matter drop. But this was not the end of it. The very next year another boy fled from the school "almost naked and barefoot" and was found after a week in the bush "nearly out of his mind" from being "whaled black and blue". One of the non-Aboriginal men who saw the boy before he was taken to the hospital warned that if the department did nothing, he would contact the "SPCA like he would if a dog was abused." Graham assumed that the department would realize that the time had come when "the services of this principal should be dispensed with." Scott, however, asked Gould to give the case "your customary careful attention." Bird was exonerated again, and when Graham attacked the church's investigation for ignoring everyone except the school staff, he was put in his place by the secretary of the department: "I have to assure you that the Department has dealt with this question seriously and I feel that no further action is advisable at present."[265]

In these and in dozens of other cases, no further action was ever taken, and thus abusive situations at many schools remained unresolved. In 1931, Graham wrote to Scott, after yet another bad report on MacKay, "I have not had good reports on this school for the past ten years, and it seems that there is no improvement. I think the Department should have the whole matter cleared up."[266] That the department seemed inherently incapable of following Graham's advice was part of the long established habit of neglect. But it stemmed, as well, from the fact that the department did not think it advisable to contradict the churches in these matters. The church was a force to be reckoned with in the national political arena and therefore in the school system. Calling for a tightening of regulatory guidelines in his 1897 report, Benson complained that the churches had "too much power."[267] In that light, he noted, in 1903, the department had "a certain amount of hesitancy in insisting on the church authorities taking the necessary action."[268]

Some officials certainly feared church influence and thought the department should as well. Agent A. Daunt, who conducted an inquiry into a 1920 incident at Williams Lake involving the suicide of one boy and the attempted mass suicide of eight others, admitted that he felt it unwise to accept the evidence of children, for "to take action on that will bring a religious hornets nest around the ears of the Department, unless the reverence in which the missionaries are held in the East has undergone a great change since I lived there."[269] Scott may not have feared those clerical hornets, but he certainly carried forward Benson's "hesitancy" throughout his long career as deputy superintendent general between 1913 and 1933, persistently deferring to church advice on issues of abuse. Chronic reluctance to challenge the churches and to insist upon the proper treatment of the children, together with the churches' persistent carelessness in the face of neglect and abuse by their members, became central elements in the pattern of mishandling abuse as long as the system continued to operate.

The department was not simply overawed by influential churches

that refused to accept criticism of their treatment of children or disciplining of their staff. The department was complicit. In the face of criticism, and when abuse or neglect was revealed, too often it seemed to feel not sympathy for the children but its own vulnerability. For the department, the school system was an important symbol. As plans were being laid for the opening of the Shubenacadie school in Nova Scotia, Scott noted that it would be sited "within full view of the railway and highway, so that the passing people will see in it an indication that our country is not unmindful of the interest of these Indian children."[270] He was not, however, careful of that interest when it came into conflict with the reputation of the system and the department. In 1922, a journalist passed on to Scott a letter from a boy at the Onion Lake school detailing "how we are treated", in particular the lack of food.[271] Despite having departmental reports that confirmed the charges, Scott advised against publication, for the boy was not trustworthy and, in fact, he said, "ninety-nine percent of the Indian children at these schools are too fat."[272]

Such misinformation, which tried to ensure that the public could see the schools but not see *into* them, was another significant element in the management of the system. The importance of the civilizing mission far outweighed issues of justice for the children. The inspector of Indian agencies in British Columbia, referring to an incident in which two girls were sexually "polluted" by male students, assured the department in 1912 that "it has been kept from the public, and I trust in the interest of the department's educational system, that it will remain so."[273] Members of that public, including parents, Indian leaders and journalists, felt the sting of aggressive departmental attacks when their criticism came too close to the bone.[274]

The department may have been unnecessarily anxious about public opinion. Through inquests, eye witness reports and newspaper articles, some information about abuse and neglect escaped the system. None of it, however — not even the shocking revelations of the Bryce report — elicited any sustained outcry or demand for reform. The issue of Aboriginal people had been consigned to the darker reaches of national consciousness. Thus the children remained trapped and defenceless within that "circle of civilized conditions", which was impervious both to criticism from without and to the constant evidence of abuse from officials within the department.

In the post-war era, as a part of the reorganization of the school system heralded by the new funding arrangement of 1957 and the contracts of 1961, the department did issue directives on punishment. As early as 1949, guidelines for strapping children were distributed to principals. They were expanded in 1953 and 1962,[275] but the focus remained on strapping, and other forms of punishment that continued to be commonly applied — confinement and deprivation of food, head shaving, and public beatings — were not specifically prohibited. As was the case in other areas of care, departmental intentions to improve standards — indicated by regulations, but by little else — were insufficient to solve the problem.

In southern schools, and in the northern affairs system too, children continued to be abused. From Turquetil Hall, Chesterfield Inlet, in the Northwest Territories, to the Kamloops school and across the country to Shubenacadie, the voices of Inuit, Indian and Métis adults who were children in those or other schools can now be heard describing the dreadful experiences suffered at the hands of church or departmental staff.[276] Writing in 1991 of her experience in both Anglican and Catholic schools, Mary Carpenter told an all too familiar story:

After a lifetime of beatings, going hungry, standing in a corridor on one leg, and walking in the snow with no shoes for speaking Inuvialuktun, and having a heavy, stinging paste rubbed on my face, which they did to stop us from expressing our Eskimo custom of raising our eyebrows for 'yes' and wrinkling our noses for 'no', I soon lost the ability to speak my mother tongue. When a language dies, the world it was generated from is broken down too.[277]

Many of those stories, or certainly ones like them, were already known to church and government officials. In 1965, in preparation for the first Residential School Principals' Conference, the department asked six 'successful' former students to give their views on the schools. Two of them were brutally frank, describing the school experience as "an insult to human dignity." One listed the punishments meted out at the "mushole", the Mohawk Institute at Brantford, Ontario. Besides the usual beatings, "I have seen Indian children having their faces rubbed in human excrement...the normal punishment for bedwetters...was to have his face rubbed in his own urine", and for those who tried to escape, "nearly all were caught and brought back to face the music". They were forced to run a gauntlet where they were "struck with anything that was at hand....I have seen boys crying in the most abject misery and pain with not a soul to care — the dignity of man!"[278]

Some did get away from the schools, however, and some of those children met their deaths.[279] Other children tried to find escape in death itself. In June 1981, at Muscowequan Residential School, "five or six girls between the ages of 8 and 10 years had tied socks and towels together and tried to hang themselves." Earlier that year, a 15-year-old at the school had been successful in her attempt.[280]

A former employee of one school reported that the principal regularly entered classrooms and would "grab these children by the hair & pull them out of their seat" and then "thrash them unmercifully with a leather strap for no apparent reason."[281] Such incidents were not necessarily met with stern references to the directives by departmental employees. An incident at another school provides an illustration of the more common response. Two boys were beaten, leaving "marks all over the boys bodies, back, front genitals etcetera." Sweeping aside confirmation by a doctor, the department's regional inspector of schools for Manitoba conceded only that such punishment had "overstepped the mark a little", but as the boys had been caught trying to run away, "he had to make an example of them."[282]

"Coercion to enforce order and obedience"[283] — to the degree that

it constituted a reign of disciplinary terror, punctuated by incidents of stark abuse — continued to be the ordinary tenor of many schools throughout the system.[284] In that light there can be no better summary comment on the system and the experience of the children than the rather diplomatic description of Pelican Lake school by the Bishop of Keewatin in 1960:

The Pelican Lake [school] has over the past many years suffered a somewhat unhappy household atmosphere. Too rigid regimentation, a lack of homelike surroundings and the failure to regard the children as persons capable of responding to love, have contributed at times to that condition. Children unhappy at their treatment were continually running away.[285]

As this description implies, the department and the churches knew something else about the system, and they knew it years before the voices of former students made the schools, their history and their consequences such a part of the public discourse on Aboriginal/government relations. They knew that the record of abuse and mistreatment being compiled by the school system comprised more than the sum of innumerable acts of violence against individual children. There were, in addition, pervasive and equally insidious consequences for all the children — for those who had been marked and for those whose scars were less visible but, perhaps, no less damaging.

From early in the history of the residential school system, it was apparent that the great majority of children leaving the schools — unlike the few 'successes' the department was able to consult in 1965 — rarely fit the vision's model of the enfranchiseable individual. In some manner, the educational process — an integral part of which was the system's overweening discipline, the "regimentation" noted at Alberni and Mt. Elgin — was counter-productive, undercutting the very qualities that were the prerequisites for assimilation — "individual acting and thinking",[286] the development of "individuality and self control", so that "children are prepared to accept responsibility" and "take their place in our democratic way of life."[287]

At the same time this phenomenon had darker hues. Local agents gave notice that not only did children not undergo a great transformation, but they became stranded between cultures, deviants from the norms of both. In 1913, one agent reviewing the record of children who had come home from McWhinney's Crowstand school, commented that there were "far too many girl graduates...turning out prostitutes, and boys becoming drunken loafers."[288] Another agent, writing in 1918, opposed the schools because a much greater number of former students than children who had remained in the community were "useless", unable to get on with life on the reserve, and fell foul of the law. It would be, he concluded, "far better that they never go to school than turn out as the ex-pupils...have done."[289] In 1960, a Catholic bishop informed the department that the "general complaint made by our Indian Youth brought up to court shortly after leaving school for various reasons is that they cannot make a decent living nor have a steady job because they have not education to compete with their white neighbours."[290]

Whether the bishop was correct, and those youth ended up in trouble because they did not have enough education, or whether it was the wrong sort of education and a severely debilitating experience, was not normally a matter for inquiry. However, in the late 1960s, the department and the churches were forced to face the fact that there were severe defects in the system. The former students consulted in 1965 were unanimous in the opinion that for most children, the school experience was "really detrimental to the development of the human being." Isolated from both the Aboriginal and the non-Aboriginal community, schools were "inclined to make robots of their students", who were quite incapable of facing "a world almost unknown to [them]."[291]

More critically, the former student perspective was confirmed forcefully in 1967 by a report from George Caldwell of the Canadian Welfare Council. Caldwell submitted a scathing evaluation of nine schools in Saskatchewan:

The residential school system is geared to the academic training of the child and fails to meet the total needs of the child because it fails to individualize; rather it treats him en masse in every significant activity of daily life. His sleeping, eating, recreation, academic training, spiritual training and discipline are all handled in such a regimented way as to force conformity to the institutional pattern. The absence of emphasis on the development of the individual child as a unique person is the most disturbing result of the whole system. The schools are providing a custodial care service rather than a child development service. The physical environment of the daily living aspects of the residential school is overcrowded, poorly designed, highly regimented and forces a mass approach to children. The residential school reflects a pattern of child care which was dominant in the early decades of the 20th century, a concept of combined shelter and education at the least public expense.[292]

While most of the report looked at the failure of the schools to achieve the goal of effective socialization, Caldwell did devote some attention to the consequences of that failure for children after they left school. Therein lay an even more "disturbing result." Caldwell confirmed what some local agents had observed decades before — that not only were children ill-prepared for life and work in Canadian society but that they were unable to deal with the unique reality facing former students. A product of both worlds, they were caught in "the conflicting pulls between the two cultures" — the "white culture of the residential school" and subsequently "the need to readapt and readjust to the Indian culture." Central to the "resolution of the impact of the cultural clash for the...child is an integration of these major forces in his life." Unfortunately, "few children are equipped to handle this struggle on their own",[293] though they would be left to do just that, to deal alone with the trauma of their school experience. Caldwell did not say, and the department never asked, how that struggle might be, or had been for generations, playing itself out in the lives of children, the families they returned to, the families and children they gave birth to, and their communities.

What Caldwell's report did venture was that his Saskatchewan

findings could be replicated in schools throughout the system.[294] Though opposed by some churchmen, this position was supported by others. A consulting psychologist, for example, having interviewed and tested Inuit students, concluded that "the educational problems encountered in the Keewatin Area are there because the Southern white educational system, with all its 'hangups' has been transported to the North." Those educational problems included "a range of emotional problems", including "anxious kids, fearful kids, mildly depressed kids, kids with poor self-images...".[295]

For its part, the department, far from being prepared to dispute Caldwell's conclusions, welcomed and even amplified them in what amounted to its own serious critique of the system. Officials in the regions and in Ottawa declared authoritatively that "more injury is done to the children by requiring them to leave their homes to attend Residential schools than if they are permitted to remain at home and not receive a formal education."[296] This was all suspiciously self-interested, however, for the department, pushing integration, used Caldwell's view that the schools were not an "environment to foster healthy growth and development"[297] as a counter-weight against those who argued for the retention of a particular school or, more broadly, for the continuation of separate and residential education. In what is perhaps the darkest irony in the history of the school system, the department acted vigorously on its failure, never having acted vigorously in the past to prevent the decades of "injury...done to children by requiring them to leave home." Soon, however, the department and the churches had to begin to face that issue of "injury"[298] — the product of the long unbroken history of abuse, mistreatment and neglect of children and of the sustained attack on Aboriginal culture.

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4. Epilogue

...hurt, devastated and outraged.[299]

In December 1992, Grand Chief Edward John of the First Nations task force group forwarded to the minister of justice of the day, Kim Campbell, "a statement prepared and approved by B.C. First Nations Chiefs and leaders". In it, they pointed out that

The federal government established the system of Indian residential schools which was operated by various church denominations. Therefore, both the federal government and churches must be held accountable for the pain inflicted upon our people. We are hurt, devastated and outraged. The effect of the Indian residential school system is like a disease ripping through our communities.[300]

The chiefs' conclusion was not a rhetorical flourish; it was literally true. By the mid-1980s, it was widely and publicly recognized that the residential school experience, in the north and in the south, like smallpox and tuberculosis in earlier decades, had devastated and continued to devastate communities. The schools were, with the agents and instruments of economic and political marginalization, part of the contagion of colonization. In their direct attack on language, beliefs and spirituality, the schools had been a particularly virulent strain of that epidemic of empire, sapping the children's bodies and beings. In later life, many adult survivors, and the families and communities to which they returned, all manifested a tragic range of symptoms emblematic of "the silent tortures that continue in our communities".[301] In 1990 Chief Ed Metatawabin of the Fort Albany First Nation community told the minister, Tom Siddon, that

Social maladjustment, abuse of self and others and family breakdown are some of the symptoms prevalent among First Nation Babyboomers. The 'Graduates' of the 'Ste Anne's Residential School' era are now trying and often failing to come to grips with life as adults after being raised as children in an atmosphere of fear, loneliness and loathing.

Fear of caretakers. Loneliness, knowing that elders and family were far away. Loathing from learning to hate oneself, because of the repeated physical, verbal or sexual abuse suffered at the hands of various adult caretakers. This is only a small part of the story.[302]

What finally broke the seal on the residential school system that had been affixed by Duncan Campbell Scott, making public the story of neglect and physical and cultural abuse, was, ironically, the deepest secret of all — the pervasive sexual abuse of the children. The official files efface the issue almost completely. There is rarely any mention of sexual behaviour that is not a concern about sexual activity among the children, which led administrators to segregate them and lock them away at night to prevent contact.[303] Any other references were encoded in the language of repression that marked the Canadian discourse on sexual matters. Clink at Red Deer commented that "the moral aspect of affairs is deplorable";[304] others wrote of "questions of immorality"[305] of "the breaking of the Seventh Commandment."[306] When the issue of sexual abuse emerged, this dearth of information became the first block in the foundation of a departmental response. In 1990, the director of education in the British Columbia region formulated an answer to any question about past abuse:

The sad thing is we did not know it was occurring. Students were too reticent to come forward. And it now appears that school staff likely did not know, and if they did, the morality of the day dictated that they, too, remain silent. DIAND staff have no record or recollection of reports — either verbal or written.[307]

None of the major reports — Paget, Bryce, or Caldwell — that dealt critically with almost every aspect of the system mentioned the issue at all; that fell to Aboriginal people themselves. Responding to abusive conditions in their own lives and in their communities, "hundreds of individuals have stepped forward with accounts of abuse in at least 16 schools."[308] Women and men — like Phil Fontaine, the leader of the Assembly of Manitoba Chiefs, who attended the Fort Alexander school — "went out on the limb to talk...because they wanted to make things better."[309] They did more than just talk, more than just speak their pain and anguish; they and their communities acted. Steps were taken to form support groups and healing circles. Beginning in 1989-1990, abusers, including former residential school staff, were accused, taken to court in British Columbia and the Yukon, and convicted in each case of multiple counts of gross indecency and sexual assault. This set off a chain of police investigations and further prosecutions.[310]

These testimonies opened the floodgates of memories, and they poured out before the public. The trials, though far from being the first acts of resistance, may have had their greatest impact in validating the general critique of the system. In the long history of the schools, protests from parents and communities about conditions in the schools and the care of the children had not been uncommon. Many parents had struggled to protect their children, to prevent them being taken to schools, or petitioned for their return. More often than not, however, they had been brushed aside by the churches and the government. Even the initiatives that achieved their immediate goal — securing better food or calling for an inspection of the school, for example — never amounted to a serious challenge to the way the system operated, and thus they fell on stony ground.[311]

Times changed, however. In the 1980s, that public ground was well watered by growing concern for the safety of women and children in Canada and harrowed by reports of the sexual abuse of non-Aboriginal children at orphanages like Mount Cashel in Newfoundland and at the Alfred reform school in Ontario. Reflecting such concerns, the government set up a family violence and child abuse initiative, allocating funds for community-based projects dealing with sexual abuse and family violence.[312] Non-Aboriginal Canadians found that Aboriginal revelations and their attack on the schools, and on the disastrous consequences of federal policy in general, fell within the parameters of their own social concerns, and thus non-Aboriginal voices joined the chorus of condemnation.

Experts working for government and Aboriginal organizations confirmed the connections made by Aboriginal people between the schools' corrosive effect on culture and the dysfunction in their communities. Experiential testimony, combined with professional analysis that charted the scope and pathology of abuse, put that reality beyond any doubt or dispute. In 1990, the *Globe and Mail* reported that Rix Rogers, special adviser to the minister of national health and welfare on child sexual abuse, had commented at a meeting of the Canadian Psychological Association that the abuse revealed to date was "just the tip of the iceberg" and that closer scrutiny of treatment of children at residential schools would show that all children at some schools were sexually abused.[313]

Abuse had spilled back into communities, so that even after the schools were closed their effects echoed in the lives of subsequent generations of children. A 1989 study sponsored by the Native Women's Association of the Northwest Territories found that eight out of 10 girls under the age of eight had been victims of sexual abuse, and 50 per cent of boys the same age had been sexually molested as well.[314] The cause was no mystery to social scientists. Researchers with the child advocacy project of the Winnipeg Children's Hospital, who investigated child abuse on the Sandy Bay reserve and other reserves in Manitoba, concluded in their report, *A New Justice for Indian Children*, that although the "roots of the problem are complex", it is "apparent that the destruction of traditional Indian culture has contributed greatly to the incidence of child sexual abuse and other deviant behaviour."[315] Consultants working for the Assembly of First Nations amplified this behaviour, detailing the "social pathologies" that had been produced by the school system.

The survivors of the Indian residential school system have, in many cases, continued to have their lives shaped by the experiences in these schools. Persons who attend these schools continue to struggle with their identity after years of being taught to hate themselves and their culture. The residential school led to a disruption in the transference of parenting skills from one generation to the next. Without these skills, many survivors had had difficulty in raising their own children. In residential schools, they learned that adults often exert power and control through abuse. The lessons learned in childhood are often repeated in adulthood with the result that many survivors of the residential school system often inflict abuse on their own children. These

children in turn use the same tools on their children.[316]

A central catalyst in that cycle of abuse were those powerful adults, men and women, employees of the churches and the department. In the years after 1969, when the church/state partnership in education was dissolved, the churches had boxed the political compass, so that at the highest levels and in the most public forums, they supported Aboriginal aspirations. In 1975, the Catholic, Anglican and United Churches formed Project North (the Aboriginal Rights Coalition) to co-ordinate their efforts in Aboriginal campaigns for justice; they were later joined by the Presbyterian church and other denominations. All of them, however, continued at the community level their historical missionary efforts within a new-found tolerance for Aboriginal spirituality.

By 1992, most of the churches had apologized, regretting, in the words of one of the Catholic texts, "the pain, suffering and alienation that so many have experienced."[317] However, as they told the minister in a joint communication through the Aboriginal Rights Coalition in August 1992, they wanted it recognized that they "share responsibility with government for the consequences of residential schools", which included not only "individual cases of physical and sexual abuse" but also "the broader issue of cultural impacts":

...the loss of language through forced English speaking, the loss of traditional ways of being on the land, the loss of parenting skills through the absence of four or five generations of children from Native communities, and the learned behaviour of despising Native identity.

They ended with an offer of fellowship, a re-creation of the old alliance. "We as churches encourage you, Mr. Siddon, to address the legacy of residential schools with greater vigour". In any such undertaking, they assured him their "moral support and...any experience we gain in responding to this legacy as churches."[318]

Having only just brought an end to the residential school era, the federal government found that "the disclosures, criminal convictions and civil actions related to sexual abuse" forced it to consider that "legacy" and to "determine a course of action."[319] It was not lacking advice on the direction it should take. From all quarters, Aboriginal and non-Aboriginal, the government was encouraged to institute a public inquiry. A private citizen warned the minister that refusing to do so would be "an indication of your gross insensitivity to the staggering effect on its victims of the crime of sexual abuse." He went on to argue passionately that, more so than in the case of other crimes, sexual abuse of children thrives on the unwillingness of society to deal with it out in the open. So long as we as a society permit 'past events' to remain buried, no matter how painful, we cannot hope to halt the shocking epidemic that we are facing.[320]

In the House of Commons, Rod Murphy, the member for Churchill, rose in November 1990 to "urge the government to commission an independent inquiry", which he was confident would "assist the

healing process for the victims of this abuse".[321] Réginald Bélair, the member for Cochrane-Superior, struck the same note in a letter to the minister. "How can the healing process begin without those who were responsible for these injustices publicly acknowledging the wrongs that were done to these children?"[322]

Within the department, Mr. Murphy's sentiments and calls for an inquiry found no apparent support. There was certainly no suggestion that full public disclosure would have any therapeutic value. Files covering the years 1990 to 1992 reveal that the department accepted the basic premise that the schools' extensive record of abuse meant that "many young innocent people have suffered"[323] and that the system had contributed to the "loss of culture and familial disruption."[324] It was recognized that the "serious psychological, emotional and social sequelae of child sexual abuse are well established" and that "there was a need to address these problems among former victims...their families and communities."[325] On the question of how that should be done it was first suggested that "Although much of the abuse has happened in the past, the department must take some responsibility and offer some solutions to this very serious problem."[326] This was superseded by a more characteristically cautious "framework to respond to incidents of abuse and the resultant effects on Indian communities". On what "is a major issue for DIAND...It is important that DIAND be seen as responding in a way that liability is not admitted, but that it is recognizing the sequelae of these events."[327]

By December 1992, when the minister, Tom Siddon, replied to the August communication from the Aboriginal Rights Coalition, the government had developed its response fully. It would not launch a public inquiry. Suggestions that it do so were met with a standard reply. "I am deeply disturbed by the recent disclosures of physical and sexual abuse in the residential schools. However, I do not believe that a public inquiry is the best approach at this time."[328]

Nor did the government follow the churches' lead in extending an apology for the residential school system. To anyone who might suggest such a course, the minister was prepared to point out that in June 1991, at the first Canadian conference on residential schools, a former assistant deputy minister, Bill Van Iterson, had "expressed on behalf of all public servants in the department, a sincere regret over the negative impacts of the residential schools and the pain they have caused to many people." There would be no ministerial apology, no apology on behalf of Canadians, and there were no plans for compensation.[329]

The strategy the government adopted was a simple one. Essentially, it tried to externalize the issue, throwing it back onto the shoulders of Aboriginal people themselves. Under the guise of being "strongly committed to the principles of self-government", as Mr. Siddon informed the Aboriginal Rights Coalition in December 1992, the government would concentrate its efforts on "enabling First Nations to design and develop their own programs according to their needs."[330] It was committed "to working with Indian and Inuit communities to find ways to address this problem at the community level and to begin the healing of these wounds."[331] To facilitate such programs the government supplemented its family

violence and child abuse initiative in 1991 with provisions and funds directed specifically to Aboriginal concerns.[332] In an echo of the old per capita debates, the coalition, in reviewing the funding, informed the minister "that these amounts are still relatively modest when looking at the deep and widespread nature of the problems."[333]

The approach to legal issues, particularly the identification and prosecution of purported abusers, was equally diffuse. There was no consideration that the system itself constituted a 'crime'. Rather, the focus was placed on individual acts that violated the *Criminal Code*. Again, the government would not take the lead. There would be no internal inquiry, no search of departmental files. "DIAND will not without specific cause, initiate an investigation of all former student residence employees."[334] It would be the task of those who had been abused to take action. They would be directed to "the appropriate law enforcement agency, and DIAND will continue to cooperate fully with any police investigation."[335] The assistance they might receive from the department would be "as open as possible", with due respect to "the privacy rights of individuals."[336]

Such policies may well have been dictated by the norms of the criminal justice system and may even be appropriate in terms of community demands for funding and control. But there is in this a cynical sleight of hand. The government has refused to apologize or to institute a special public inquiry and instead wishes to concentrate on the 'now' of the problem, the 'savage' sick and in need of psychological salvation. This is an attempt to efface the 'then', the history of the system, which, if it were considered, would inevitably turn the light of inquiry back onto the source of that contagion — on the 'civilized' — on Canadian society and Christian evangelism and on the racist policies of its institutional expressions in church, government and bureaucracy. Those are the sites that produced the residential school system. In thought and deed this system was an act of profound cruelty, rooted in non-Aboriginal pride and intolerance and in the certitude and insularity of purported cultural superiority.

Rather than attempting to close the door on the past, looking only to the future of communities, the terrible facts of the residential school system must be made a part of a new sense of what Canada has been and will continue to be for as long as that record is not officially recognized and repudiated. Only by such an act of recognition and repudiation can a start be made on a very different future. Canada and Canadians must realize that they need to consider changing their society so that they can discover ways of living in harmony with the original people of the land.

The future must include making a place for those who have been affected by the schools to stand in dignity, to remember, to voice their sorrow and anger, and to be listened to with respect. With them Canada needs to pursue justice and mutual healing; it must build a relationship, as the Manitoba leader and much decorated veteran Thomas Prince encouraged the government to do in his appearance before the joint committee of the Senate and the House of Commons in 1947, that will bind Aboriginal and non-Aboriginal people "so that they can trust each other and...can walk

side by side and face this world having faith and confidence in one another."[337]

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5. The Need for a Public Inquiry

We must carefully assess the nature, scope and intent of Canada's residential school strategy. We must carefully assess the role of the church. We must listen carefully to the survivors. We must thoroughly review the options available to Aboriginal people for restitution and redress. We must carefully consider how it might be possible to achieve justice after all that has been wrought by residential schools.

Wendy Grant,
Vice-Chief Assembly of First Nations
Canim Lake, British Columbia, 8 March 1993

Redressing the wrongs associated with the residential school system will involve concerted action on a number of fronts. We make a number of recommendations elsewhere in our report that bear directly on residential schooling. In particular, in Volume 3, our recommendations concerning an Aboriginal university include the recommendation that the federal government fund the establishment and operation of a national Aboriginal archive and library to house records concerning residential schools (see Volume 3, Chapter 3). Also in Volume 3, our recommendations concerning health and healing include the recommendation that the federal government take immediate steps to ensure that individuals suffering the effects of physical, sexual or emotional abuse have access to appropriate methods of healing (see Volume 3, Chapter 4). The remainder of this chapter addresses the need for further inquiry and investigation into the profound cruelty inflicted on Aboriginal people by residential school policies.

Our research and hearings indicate that a full investigation into Canada's residential school system, in the form of a public inquiry established under Part I of the *Public Inquiries Act*, is necessary to bring to light and begin to heal the grievous harms suffered by countless Aboriginal children, families and communities as a result of the residential school system.[338] The public inquiry's main focus should be to investigate and document the origins, purposes and effects of residential school policies and practices as they relate to all Aboriginal peoples, with particular attention to the manner and extent of their impact on individuals and families across several generations, on communities, and on Aboriginal society as a whole. The inquiry should conduct public hearings across the country, with sufficient funding to enable those affected to testify. The inquiry should be empowered to commission research and analysis to assist in gaining an understanding of the nature and

effects of residential school policies. It should be authorized to recommend whatever remedial action it believes necessary for governments and churches to ameliorate the conditions created by the residential school experience. Where appropriate, such remedies should include apologies from those responsible, compensation on a collective basis to enable Aboriginal communities to design and administer programs that assist the healing process and rebuild community life, and funding for the treatment of affected people and their families.[339]

We believe that a public inquiry into residential schools is an appropriate social and institutional forum to enable Aboriginal people to do what we and others before us have suggested is necessary: to stand in dignity, voice their sorrow and anger, and be listened to with respect. It has often been noted that public inquiries perform valuable social functions. In the words of Gerald Le Dain, a public inquiry has certain things to say to government but it also has an effect on perceptions, attitudes and behaviour. Its general way of looking at things is probably more important in the long run than its specific recommendations. It is the general approach towards a social problem that determines the way in which a society responds to it. There is much more than law and governmental action involved in the social response to a problem. The attitudes and responses of individuals at the various places at which they can affect the problem are of profound importance.

What gives an inquiry of this kind its social function is that it becomes, whether it likes it or not, part of this ongoing social process. There is action and interaction...Thus this instrument, supposedly merely an extension of Parliament, may have a dimension which passes beyond the political process into the social sphere....The decision to institute an inquiry of this kind is a decision not only to release an investigative technique but a form of social influence as well.[340]

A public inquiry is also an appropriate instrument to perform the investigative function necessary to understand fully the nature and ramifications of residential school policies. As Marius Tungilik told us at our public hearings, "We need to know why we were subjected to such treatment in order that we may begin to understand and heal."[341] A public inquiry benefits from independence and flexibility in this regard. As stated in a working paper of the Law Reform Commission of Canada,

Investigatory commissions supplement the activities of the mainstream institutions of government. They may investigate government itself, a function that must clearly fall to some body outside the executive and public service. They possess an objectivity and freedom from time constraints not often found in the legislature. They can deal with questions that do not require the application of substantive law by the courts. And they can reasonably investigate and interpret matters not wholly within the competence of Canada's various police forces.[342]

Given the range of subjects contemplated by our terms of reference, it was not possible for the Royal Commission to perform these social and investigative functions to the extent necessary to

do justice to those harmed by the effect of Canada's residential school system. We hope that this chapter of our report opens a door on a part of Canadian history that has remained firmly closed for too long. In our view, however, much more public scrutiny and investigation are needed. A public inquiry into Canada's residential school system would be an indispensable first step toward a new relationship of faith and mutual confidence.

Recommendations

The Commission recommends that

1.10.1

Under Part I of the *Public Inquiries Act,* the government of Canada establish a public inquiry instructed to
(a) investigate and document the origins and effects of residential school policies and practices respecting all Aboriginal peoples, with particular attention to the nature and extent of effects on subsequent generations of individuals and families, and on communities and Aboriginal societies;

(b) conduct public hearings across the country with sufficient funding to enable the testimony of affected persons to be heard;

(c) commission research and analysis of the breadth of the effects of these policies and practices;

(d) investigate the record of residential schools with a view to the identification of abuse and what action, if any, is considered appropriate; and

(e) recommend remedial action by governments and the responsible churches deemed necessary by the inquiry to relieve conditions created by the residential school experience, including as appropriate,

- apologies by those responsible;

- compensation of communities to design and administer programs that help the healing process and rebuild their community life; and

- funding for treatment of affected individuals and their families.

1.10.2

A majority of commissioners appointed to this public inquiry be Aboriginal.

1.10.3

The government of Canada fund establishment of a national repository of records and video collections related to residential schools, co-ordinated with planning of the recommended Aboriginal

Peoples' International University (see Volume 3, Chapter 5) and its electronic clearinghouse, to

• facilitate access to documentation and electronic exchange of research on residential schools;

• provide financial assistance for the collection of testimony and continuing research;

• work with educators in the design of Aboriginal curriculum that explains the history and effects of residential schools; and

• conduct public education programs on the history and effects of residential schools and remedies applied to relieve their negative effects.

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Report of the Royal Commission on Aboriginal Peoples

Volume 1 - Looking Forward Looking Back
PART TWO False Assumptions and a Failed Relationship
Chapter 10 - Residential Schools

Notes:

1 This chapter is based on extensive original research conducted for the Royal Commission by John Milloy of Trent University. Research on the school system was conducted in a number of archives: the National Archives of Canada in Ottawa, the Presbyterian, Anglican and United church archives in Toronto, and the Deschatelets Archives of the Oblates of Mary Immaculate in Ottawa. These represent the most significant public documentary collections for the history of the school system. There are, however, other records in regional, provincial and diocesan archives throughout Canada.

Research was also conducted at the Department of Indian Affairs and Northern Development on approximately 6,000 residential school files that are still held by the department. The Royal Commission secured access to this documentation only after protracted and difficult negotiations; these were eventually successful, but they seriously delayed completion of the project. Only one member of the research team was allowed to review the material and then only after signing an agreement setting out a detailed research protocol and obtaining an 'enhanced reliability' security clearance.

Information that fell, in the department's determination, within the bounds of solicitor/client privilege or confidences of the Queen's Privy Council for Canada within the last 20 years was not made available. All other files, including those carrying access restrictions ('Confidential' or 'Protected', for example) were to be made available. Most critically, access to the departmental collection was granted under the provisions of the *Privacy Act*, which stipulates that no disclosure of personal information, in the meaning of the act, can be made in a form that could reasonably be expected to identify the individual to whom it relates. The foregoing text and footnotes and these notes were written to comply with that stipulation.

The following abbreviations are used in the notes:

INAC - files (stored at the headquarters of the Department of Indian Affairs and Northern Development in Hull, Quebec) that come

under the Privacy Act restrictions

NAC - National Archives of Canada
MG - Manuscript Group
RG - Record Group
RG10 - Indian Affairs records (held by the National Archives)
RG85 - Northern Affairs records (held by the National Archives)
MR - Microfilm Reel

2 For a review of Canadian policy, see John L. Tobias, "Protection, Civilization, Assimilation: An Outline History of Canada's Indian Policy", in *As Long as the Sun Shines and Water Flows*, ed. Ian A.L. Getty and Antoine S. Lussier (Vancouver: University of British Columbia Press, 1983); J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada*, revised edition (Toronto: University of Toronto Press, 1989); and Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples* (Toronto: McClelland & Stewart Inc., 1992).

3 Annual Report of the Department of Indian Affairs for the Year Ended 31 March 1911 [cited hereafter as Annual Report], p. 273. For details of Scott's career, see E. Brian Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986).

4 National Archives of Canada (NAC), Record Group 10 (RG10), volume 6039, file 160-1, MR C 8152, F. Oliver to Joint Church Delegation, 21 March 1908.

5 NAC RG10, volume 3674, file 11422, MR C 10118, To Sir John A. Macdonald from the Archbishop of Quebec, February 1883, and volume 3647, file 8128, MR C 10113, To the Superintendent General of Indian Affairs from A. Sutherland, 30 July 1883.

6 NAC MG 26A, Sir John A. Macdonald Papers, volume 91, "Report on Industrial Schools for Indians and Half-Breeds" [The Davin Report], 14 March 1879, pp. 35428-45. See C.B. Koester, *Mr. Davin, M.P., A Biography of Nicholas Flood Davin* (Saskatoon: Western Producer Prairie Books, 1980) for biographical information.

7 Annual Report 1890, p. xii.

8 NAC RG10, volume 6040, file 160-2, part 4, MR C 8153, T. Ferrier, *Report of the Alberta Indian Commission of the Methodist Church* (1911).

9 INAC file 1/25-1, volume 15, To Sir John A. Macdonald from L. Vankoughnet, 26 August 1887.

10 N. Sheehan, "Education, Society and the Curriculum in Alberta 1905-1980: An Overview", and E. Brian Titley, "Indian

Industrial Schools in Western Canada", in *Essays in Canadian Educational History*, ed. N. Sheehan, J.D. Wilson and D.C. Jones

(Calgary: Detselig, 1986). Also R.M. Connelly, "Missionaries and Indian Education", in *The Education of Indian Children in Canada*, ed. L.G.P. Waller (Toronto: The Ryerson Press, 1965); and David A. Nock, "The Social Effects of Missionary Education: A Victorian Case Study", in *Reading, Writing and Riches: Education and the Socio-economic Order in North America*, ed. Randle W. Nelson and David A. Nock (Kitchener: Between the Lines, 1978).

11 Annual Report 1911, p. 273.

12 NAC RG10, volume 3947, file 123764, MR C 10166, To the Superintendent General of Indian Affairs from Inspector J.A. Macrae, 7 December 1900.

13 George Manuel and Michael Posluns, *The Fourth World* (Don Mills: Collier-Macmillan Canada Ltd., 1974), p. 63.

14 Relatively few schools were established in Quebec, however, for reasons that are not entirely clear. It may have been because the major portion of the Aboriginal population that concerned the Catholic church was served by a day school system that had emerged in the southern part of the province before Confederation. Or it could have been because the Catholic church's missionary focus and energy were concentrated, in the nineteenth and early twentieth centuries, on the Canadian west and north-west, very much in competition with a similar advance of the Protestant churches into those regions. In those regions and in British Columbia, Catholic residential schools dominated.

15 From the outset the position taken on the education of Métis children in residential schools was rather ambiguous. The deputy superintendent general, J. Smart, noted in October 1899 (see NAC RG10, volume 3931, file 117377, MR C 10163, To the Secretary from D. Laird, 27 August 1900) that although he did not consider it appropriate "that the children of the Half-Breeds proper, of Manitoba and the Territories, should be admitted into Indian schools and be paid for by the Department---all children, even those of mixed blood, whether legitimate or not, who live upon an Indian Reserve and whose parents on either side live as Indians upon a Reserve, even if they are not annuitants, should be eligible for admission to the schools." There was, however, no hard and fast policy until the 1911 contract, clause 4(b) of which stated, "No Half-breed child shall be admitted to the said schools unless Indian children cannot be obtained to complete the number authorized [for any particular school]---in which event the Superintendent General may in his discretion permit the admission of any Half-breed child; but the Superintendent General will not pay any grant for any such Half-breed pupil---nor any part of the cost of its maintenance or education whatever." (Correspondence and Agreement relating to the Maintenance and Management of Indian Boarding Schools [Ottawa: Government Printing Bureau, 1911].) This policy was maintained throughout the rest of the history of the system.

It is impossible to determine the number of Aboriginal children who attended the schools over the life of the system. Estimates have been given. In T. Lascelles, OMI, "Indian Residential Schools", *The*

Canadian Catholic Review **10/5** (May 1992), it is suggested that fewer than one in six attended. In his study, "Attendance at Indian Residential Schools in British Columbia, 1890-1920", *B.C. Studies* 44 (Winter 1979-80), James Redford concluded that only 17.6 per cent of children aged 6 to 15 attended residential schools in British Columbia in 1901 and that the proportion rose to 22.3 per cent in 1920. In "Owen Glendower, Hotspur, and Canadian Indian Policy", *Ethnohistory* 37/4 (Fall 1990), J.R. Miller concluded that "the system never reached more than a minority of young Indians and Inuit." In fact, the extant school records for the system as a whole are not complete enough to allow useful calculations to be made. Given that fact, this text relies on annual enrolment lists found in NAC RG10 files, INAC files and the tabular statements in annual reports. These give only total enrolments per year, however, and cannot be used to determine the number of children who had a residential school experience. Any figures, including the minorities mentioned by Lascelles, Redford and Miller, are dangerously misleading unless they are fully contextualized. The impact of the system was felt not only by the children who attended schools but by the families and communities that were deprived of their children and had to deal subsequently with children who returned damaged from the schools. In that sense, communities, parents and, indeed, children later born to former students of the residential schools were all 'enroled'.

16 NAC RG10, volume 3818, file 57799, MR C 10143, Reed Report (1889).

17 NAC RG10, volume 6462, file 888-1 (2-3, 6), MR C 8781, C. Hives to R.A. Hoey, 21 June 1942, and R.A. Hoey to C. Hives, 29 June 1942.

18 NAC RG10, volume 3647, file 8128, MR C 10113, To Indian Commissioner, Regina, from J.A. Macrae, 18 December 1886.

19 Macrae to Indian Commissioner (cited in note 18).

20 Annual Report 1897, p. xxvi.

21 Annual Report 1888, pp. ix-x.

22 Macrae to Indian Commissioner (cited in note 18).

23 Davin Report (cited in note 6).

24 David A. Nock, *A Victorian Missionary and Canadian Indian Policy: Cultural Synthesis versus Cultural Replacement* (Waterloo, Ontario: Wilfrid Laurier University Press, 1988), p. 73. The school was at Sault Ste. Marie.

25 Annual Report 1889, p. xi.

26 NAC RG10, volume 6039, file 160-1, MR C 8152, To the Minister from the Archbishop of St. Boniface, 30 November 1912.

27 General Synod Archives, GS 75-103, Series 1-14, Box 15, MSCC Blake Correspondence, To S.H. Blake from F. Oliver, 28 January 1908.

28 Annual Report 1889, p. xi.

29 Annual Report 1890, p. xii.

30 Annual Report 1911, p. 273.

31 Davin Report (cited in note 6).

32 L. Vankoughnet to Sir John A. MacDonald (cited in note 9).

33 Annual Report 1895, p. xxii.

34 Annual Report 1891.

35 Annual Report 1896, pp. 398-399.

36 NAC RG10, volume 6040, file 160-3A, MR C 8153, Memorandum of the Convention of the Catholic Principals of Residential Schools held at Lebrett, Saskatchewan, 28 and 29 August 1924.

37 Annual Report 1891, p. xiii.

38 NAC RG10, volume 6040, file 160-7, part 1, MR C 8153, Report of the Following Institutions Under the Management of the Home Board of Missions for the United Church of Canada, 31 March 1927.

39 Manuel and Posluns, *The Fourth World* (cited in note 13), p. 67.

40 Nock, *A Victorian Missionary* (cited in note 24), p. 78 [emphasis in original].

41 Annual Report 1899, p. xxxi.

42 Annual Report 1895, pp. xxii-xxiii.

43 NAC RG10, volume 3674, file 11422-5, MR C 10118, To H. Reed from the Deputy Superintendent General, 24 August 1890.

44 Nock, *A Victorian Missionary* (cited in note 24), p. 78; and NAC RG10, volume 6443, file 881 (1-3), MR C 8767, To H. McGill from D. MacKay, 25 March 1937.

45 Macrae to Indian Commissioner (cited in note 18).

46 Annual Report 1887, p. lxxx.

47 NAC RG10, volume 4037, file 317021, MR C 10177, To the Secretary from Agent [unsigned], Birtle, Manitoba, 20 December 1907.

48 Annual Report 1896, p. xxxviii.

49 NAC RG10, volume 3927, file 116836-1A, MR C 10162, To the Superintendent General of Indian Affairs from R. MacKay and J. Menzies, 11 March 1904.

50 NAC RG10, volume 3920, file 116751-1A, MR C 10161, To the Deputy Superintendent General from H. Reed, 12 July 1889.

51 Annual Report 1902, p. 189.

52 NAC RG10, volume 6039, file 160-1, MR C 8152, To the Secretary from Principal Heron, 14 April 1909.

53 NAC RG10, volume 4072, file 431636, MR C 10183, To the Assistant Deputy and Secretary from Reverend W. McWhinney, 26 February 1913.

54 See, for example, H. Reed to the Deputy Superintendent General (cited in note 50).

55 Annual Report 1898, p. xxvii.

56 NAC RG10, volume 6039, file 160-1, MR C 8152, Principal Heron to the Secretary.

57 Annual Report 1903, p. 89.

58 See, for example, Annual Report 1906.

59 Annual Report 1911, p. 296.

60 Olive P. Dickason, *Canada's First Nations: A History of Founding Peoples* (Toronto: McClelland & Stewart Inc., 1992) p. 320.

61 Annual Report 1911, p. 275; 1912, p. 302.

62 Annual Report 1914, p. 115.

63 NAC RG10, volume 6041, file 160-7, part 1, MR C 8153, Resolution passed by the Association of Indian Workers in Saskatchewan at their meeting held in May 1930.

64 Annual Report 1910, p. 275.

65 Principal Heron to the Secretary (cited in note 52).

66 Annual Report 1903, p. 89.

67 INAC file 501/25-1-019, volume 1, To A.B. Weselak, MP, from H.M. Jones, Director, 4 June 1954.

68 INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968. For further information on the failure of the system to reach educational standards comparable to those of non-Aboriginal schools, see J. Barman, Y. Hébert and D. McCaskill, "The Legacy of the Past: An Overview", in *Indian Education in Canada*, ed. J. Barman, Y. Hébert and D. McCaskill, Volume 1: The Legacy (Vancouver: University of British Columbia Press, 1986).

69 INAC file 6-37-1, volume 2, Notes on Highlights of Indian Affairs Operations 1957 to Date, Memorandum for the Director, Education Division, 1952-1957.

70 Residential Schools Past and Future (cited in note 68).

71 INAC file 6-37-1, volume 2, Notes on Highlights of Indian Affairs Operations 1957 To Date.

72 INAC file D4700-1, volume 2, Economic and Social Development — Indian Education, Discussion Paper, 22 July 1981.

73 INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

74 NAC RG10, volume 8448, file 06/23-5-019, MR C 13800, Fort Alexander Inspection Report, B. Warkentin, 1951.

75 NAC RG10, volume 8449, file 511/23-5-017, MR C 13800, Portage La Prairie Inspection Report, Eldon Simms, 9 November 1944.

76 INAC file 4745-1, volume 1, Indian Education Program, 1972.

77 INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

78 NAC RG10, volume 8448, file 506/23-5-019, MR C 13800, Fort Alexander Inspection Report, B. Warkentin, 15 June 1942.

79 INAC file E4974-1, volume 3, Historical Trends in Indian Education, 1982.

80 INAC file 1/25-1, volume 35, Educational Services for Indians, 24 March 1969.

81 House of Commons, Special Committee on Reconstruction and Re-Establishment, *Minutes of Proceedings and Evidence*, No. 9, 24 May 1944, p. 306.

82 NAC RG10, volume 6205, file 468-1, MR C 7937, To Dr. Dorey from R.A. Hoey, 29 May 1944; To the Deputy Minister from R.A.

Hoey, 7 June 1944.

83 INAC file 6-21-1, volume 3, Statement Presented by Mr. R.F. Davey on Behalf of Indian Affairs Branch to the Standing Committee of Ministers of Education, 25 September 1963.

84 NAC RG10, volume 6205, file 468-1, MR C 7937, To the Deputy Minister from R. A. Hoey, 7 June 1944.

85 INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J. G. McGilp, 24 February 1970.

86 INAC file 501/25-1-019, volume 1, To A.B. Weselak, MP, from H.M. Jones, 4 June 1954.

87 INAC file 4745-1, volume 1, Indian Education Program, 1972.

88 INAC file 6-21-1, volume 2, To D. Watters, Treasury Board, from L. Fortier, 22 July 1958.

89 INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

90 INAC file 4745-1, volume 1, Indian Education Program, 1972.

91 INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

92 INAC file 601/25-2, volume 2, Admissions Policy for Indian Student Residences, Preface, June 1969.

93 INAC file 301/25-13, volume 4, To R.L. Boulanger from D. Kogawa, 25 January 1973.

94 INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

95 INAC file 1/25-1, volume 22, Memorandum on Education, R.F. Davey, 15 September 1969.

96 INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

97 INAC file 1/25-1, volume 35, Educational Services for Indians, 24 March 1969.

98 House of Commons, Special Committee on Reconstruction and Re-Establishment, *Minutes of Proceedings and Evidence*, No. 9, 24 May 1944 p. 306.

99 INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J.D. McGilp, 24 February 1970.

100 INAC file 501/25-1-019, volume 1, To A.B. Weselak, MP, from H.M. Jones, 4 June 1954.

101 INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

102 INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J.D. McGilp, 24 February 1970.

103 INAC file 671/25-2, volume 3, Reasons for Admission — Category 3 Student Residences, J. B. Freeman, 7 May 1974.

104 INAC file 40-2-185, volume 1, Relationships Between Church and State in Indian Education, 26 September 1966. See also file 671/25-2, volume 3, To W. Grant from F. Misiurski, 24 January 1974; and file 675/25-13, volume 2, To E.L. Davies from R. Martin, 16 June 1975, and to E.L. Davies from R. Martin 24 March 1975.

105 INAC file 671/25-2, volume 3, To W. Grant from F. Misiurski, 24 January 1974.

106 INAC file 601/25-1, volume 6, To Chief D. Ahenakew from J.G. McGilp, 24 February 1970.

107 INAC file 40-2-185, volume 1, Relationships Between Church and State in Indian Education, 26 September 1966.

108 INAC file 1/25-1 volume 35, Educational Services for Indians, 24 March 1969.

109 INAC file 40-2-185 volume 1, Relationships Between Church and State in Indian Education, 26 September 1966.

110 INAC file 1/25-1 volume 35, Educational Services For Indians, 24 March 1969.

111 Indian and Eskimo Welfare Commission, "Residential Education for Indian Acculturation" (Ottawa: Oblate Fathers in Canada, 1958), p. 15.

112 INAC file 6-21-7, volume 1, To Mrs. L. Potts from L. Fortier, 22 December 1959.

113 INAC file 40-2-185, volume 1, Relationships Between Church and State in Indian Education, 26 September 1966.

114 INAC file 501/1, volume 2, To Assistant Deputy Minister from R.F. Davey, 18 August 1969.

115 See Norman Andrew Gull, "The 'Indian Policy' of the Anglican Church of Canada from 1945 to the 1970s", M.A. thesis, Trent University (1992), for a discussion of this event.

116 INAC file 853/25-13, volume 3, To Reverend J. P. Mulvihill from J. Chrétien, 8 January 1971.

117 INAC file 601/25-13, volume 3, A Proposal to Transfer the Control and Management of Student Residences to Indian People, January 1971.

118 INAC file 779/25-1-009, volume 1. This file contains a number of documents related to the dispute over the school and the final resolution. Blue Quills was located on the Blue Quills reserve, west of Saddle Lake, Alberta.

119 INAC file 853/25-13, volume 3, To Reverend J.P. Mulvihill from J. Chrétien, 8 January 1971.

120 INAC file 12-04-93, To P. Isaac from P. Bisson, 24 August 1984.

121 See INAC file 40-2-185, volume 1, To E.A. Côté, Deputy Minister, Department of Northern Affairs and National Resources, from G.R. Cameron, 26 May 1966; INAC file 600-1, volume 2, Education in Canada's Northland, 12 December 1954; and Kenneth Coates, "'Betwixt and Between': The Anglican Church and the Children of the Carcross (Chooulta) Residential School, 1911-1954", *B.C. Studies* 64 (Winter 1984-85).

122 See INAC file 600-1, volume 2, Education of Eskimos (1949-1957); and file 603-2, volume 1, Education of Eskimos, 5 March 1957.

123 INAC file 600-1, volume 2, Education in Canada's Northland. Shelagh D. Grant, *Sovereignty or Security? Government Policy in the Canadian North, 1936-1950* (Vancouver: University of British Columbia Press, 1988); Richard Finnie, *Canada Moves North* (New York: The Macmillan Company, 1943); Morris Zaslow, *The Northward Expansion of Canada 1914-1967* (Toronto: McClelland and Stewart, 1988); and Norman J. Macpherson, *Dreams and Visions, Education in the Northwest Territories from Early Days to 1984* (Yellowknife: Department of Education, Government of the Northwest Territories, 1991).

124 INAC file 630-101-1, volume 4, Memorandum for the Minister, R.G. Robertson, Deputy Minister, 12 August 1957.

125 INAC file 40-2-185, volume 1, Memorandum For Cabinet — Education in the Northwest Territories, Jean Lesage, 4 March 1955.

126 INAC file 600-1, volume 2, Education in Canada's Northland, 12 December 1954.

127 INAC file 600-1, volume 2, "New Education Programme in the Northwest Territories", press release, 20 March 1955.

128 INAC file 1/25-13-2, volume 1, To R.F. Davey from F.A.G.

Carter, 24 April 1968; file 250-9-20, volume 1, To J.A. Macdonald, Deputy Minister, from S. Hodgson, Commissioner of the N.W.T., 13 February 1969, and To S. Hodgson from J.A. Macdonald, 18 December 1968; and Norman J. Macpherson, *Dreams and Visions, Education in the Northwest Territories from Early Days to 1984* (Yellowknife: Department of Education, Government of the Northwest Territories, 1991), p. 20.

129 INAC file 600-1-6, volume 5, Memorandum for the Deputy Minister, 11 October 1963. Large Hostels: Fleming Hall (at Fort Macpherson), Bompas Hall (Fort Simpson), Lapointe Hall (Fort Simpson), Breynat Hall (Fort Smith), Grollier Hall (Inuvik), Stringer Hall (Inuvik), Akaitcho Hall (Yellowknife), Turquetil Hall (Chesterfield Inlet). Small Hostels: Cambridge Bay, Baker Lake, Belcher Islands, Broughton Island, Cape Dorset, Eskimo Point, Great Whale River, Igloolik, Pangnirtung, Payne Bay, Pond Inlet and Port Harrison (Inukjuak).

130 INAC file 600-1, volume 2, Education in Canada's Northland, 12 December 1954.

131 INAC file 603-2, volume 1, Education of Eskimos, 5 March 1957.

132 Right from the outset churches lobbied for funds. See, for example, NAC RG10, volume 3674, file 11422, MR C 10118, To Sir John A. Macdonald from the Archbishop of Quebec, February 1883, and To Superintendent General of Indian Affairs from J. McDougall, 28 October 1883.

133 NAC RG10, volume 7185, file 1/25-1-7-1, MR C 9696, Memorandum to the Honourable Charles Stewart, 31 October 1927.

134 NAC RG10, volume 6436, file 878-1 (1-3), MR C 8762, To the Deputy Superintendent General from M. Benson, 23 October 1907.

135 INAC file 600-1, volume 2, Report of the Committee of the Privy Council, approved by His Excellency the Governor General in Council on 22nd October 1892.

136 To E. Dewdney from L. Vankoughnet, NAC RG10, volume 3927, file 116836-1A, MR C 10162, 2 June 1890; and volume 3926, file 116836-1, MR C 10162, 10 June 1890.

137 NAC RG10, volume 6039, file 160-1, MR C 8152, To the Deputy Superintendent General from the Auditor General, 7 December 1904. For a discussion of funding and management difficulties, see E. Brian Titley, *Narrow Vision, Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986), pp. 80-82; and NAC RG10, volume 3927, file 116836-1A, MR C 10162, To the Deputy Superintendent General from M. Benson, 19 March 1904, and To Deputy Superintendent General from M. Benson, 25 April 1905.

138 NAC RG10, volume 6039, file 160-1, MR C 8152, To F. Pedley from Reverend A.E. Armstrong, 1 February 1907.

139 NAC RG10, volume 6730, file 160-2 (1-3), MR C 8092, To Dr. Roche from D.C. Scott, 27 June 1917.

140 NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910. For a discussion of the details of the contracts, see file 160-1, To the Superintendent General from F. Pedley, 17 November 1910.

141 NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910; School Classification and Per Capita Rates æ 1910.

142 NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910, To the Superintendent General from F. Pedley, 17 November 1910.

143 NAC RG10, volume 6039, file 160-1, MR C 8152, Memorandum on Conference in F. Oliver's Office, 8 November 1910.

144 Correspondence and Agreement Relating to the Maintenance and Management of Indian Boarding Schools (Ottawa: Government Printing Bureau, 1911), p. 4.

145 NAC RG10, volume 7185, file 1/25-1-7-1, Memorandum, F.T. Ferrier, 5 April 1932; Circular from Deputy Superintendent General, 22 February 1933; Circular, 15 April 1935; Circular, 13 July 1935; Circular, 26 March 1936; Circular, 25 June 1936; and volume 6041, file 160-5, MR C 8153, To Reverend J. Scannell from H. McGill, 17 February 1936.

146 NAC RG10, volume 6041, file 160-5, MR C 8153, To J. Plourde from R.A. Hoey, 15 October 1940.

147 NAC RG10, volume 6730, file 160-2 (1-3), MR C 8092, To Reverend Dr. T. Westgate from R.A. Hoey, 11 January 1941.

148 NAC RG10, volume 6730, file 160-2 (1-3), MR C 8092, To D.C. Scott from Canon S. Gould, 23 September 1924. See also volume 6040, file 160-3A, MR C 8153, To the Minister from Canon S. Gould, 7 January 1921; and volume 6039, file 160-1, MR C 8152, Memo for File, R.T. Ferrier, 8 February 1926.

149 NAC RG10, volume 7185, file 1/25-1-7-1, Memorandum for H. McGill from R.A. Hoey, 4 November 1938.

150 NAC RG10, volume 6001, file 1-1-1(1), MR C 8134, Memorandum for A. Meighen from D.C. Scott, January 1918.

151 NAC RG10, volume 7185, file 1/25-1-7-1, To Honourable Charles Stewart from D.C. Scott, 31 October 1927.

152 NAC RG10, volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897.

153 NAC RG10, volume 3674, file 11422, MR C 10118, To Reverend A. Lacombe from E. Dewdney, 23 July 1883.

154 NAC RG10, volume 4041, file 334503, MR C 10178, Paget Report, 25 November 1908.

155 NAC RG10, volume 3917, file 116575-5, MR C 10161, To the Indian Commissioner from M.M. Seymour, MD, 17 September 1895. See also volume 3674, file 11422 5, MR C 110118, To the Deputy Superintendent General from H. Reed, 13 May 1891; volume 3922, file 116820-1A, MR C 10162, To the Deputy Superintendent General from J. Day, n.d.; volume 6027, file 117-1-1, MR C 8147, To the Assistant Commissioner, Regina, from A. Baird, 24 December 1894; volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897; and volume 6305, file 652-1, MR C 8682, To J. McLean from A. MacArthur, 27 December 1910.

156 NAC RG10, volume 6039, file 160-1, To J. McLean from M. Benson, 15 July 1897.

157 The department did attempt to force parents to send their children by threatening to cancel rations and other "privileges" and, in both the Indian affairs and northern affairs systems, by the suspension of family allowance payments. See, for example, NAC RG85, volume 1507, file 600-3, To R.A. Gibson from F. Fraser, 16 December 1948; INAC file 501/25-1, volume 1, Circular No. 42, School Attendance, R.D. Ragan, 6 October 1958; To R.D. Ragan from R.F. Davey, 24 July 1958; and file 773/25-2-004, Family Allowances, Unsatisfactory School Report, 1 March 1967.

158 NAC RG10, volume 6348, file 752-1, MR C 8705, To the Deputy Superintendent General from D.C. Scott, 23 April 1909.

159 NAC RG10, volume 4041, file 334503, MR C 10178, Paget Report. See also volume 3927, file 116836-1A, MR C 10162, To the Superintendent General from R. MacKay and J. Menzies, 11 March 1904.

160 NAC RG10, volume 3937, file 120048-1, MR C 10164, To A. Vowell from the Bishop of Caledonia, 11 November 1907.

161 NAC RG10, volume 4037, file 317021, MR C 10177, *Montreal Star*, 15 November 1907, and *Saturday Night*, 23 November 1907.

162 NAC RG10, volume 4037, file 317021, MR C 10177, *Montreal Star*, 15 November 1907, and *Saturday Night*, 23 November 1907; Report on the Indians of Manitoba and the Northwest Territories [Bryce report] (Ottawa: Government Printing Bureau, 1907).

163 NAC RG10, volume 1346-7, no file no., MR C 13916, To W. Robertson from Principal W. Lemmens, 31 March 1915.

164 NAC RG10, volume 1346-7, no file no., MR C 13916, To the Secretary from S. Swinford, 4 December 1907.

165 NAC RG10, volume 1346-7, no file no., MR C 13916. The Secretary of the Department solicited reactions to the Bryce report from local agents. They were generally in agreement with Bryce. See, for example, To the Secretary from D. Mann, 22 November 1907 and To the Secretary from T. Eastwood, 15 December 1907.

166 Duncan C. Scott, "Indian Affairs, 1867-1912", in *Canada and its Provinces: A History of the Canadian People and their Institutions by One Hundred Associates*, ed. Adam Shortt and Arthur G. Doughty (Toronto: Glasgow, Brook & Company, 1914), volume 7, p. 615.

167 NAC RG10, volume 4037, file 317021, MR C 10177, *Saturday Night*, 23 November 1907.

168 Anglican Church of Canada, General Synod Archives, S.H. Blake File, G.S. 75-103, "To the Honourable Frank Oliver, Minister of the Interior, 27 January 1907", quoted in To the Members of the Board of Management of the Missionary Society of the Church of England, 19 February 1907.

169 P.H. Bryce, *The Story of a National Crime, being an Appeal for Justice to the Indians of Canada* (Ottawa: James Hope & Sons, Limited, 1922).

170 NAC RG10, volume 6015, file 1-1-13, MR C 8141, To W. Graham from D.C. Scott, 16 February 1925. See also To D.C. Scott from W. Graham, 10 February 1925.

171 Bryce, *A National Crime* (cited in note 169), p. 14.

172 See NAC RG10, volume 6001, file 1-1-1 (1), MR C 8134, Memorandum for Arthur Meighen from D.C. Scott, January 1918; volume 6015, file 1-1-13, MR C 8141, To Dr. H. McGill from E.L. Stone, MD, 27 November 1903; and George J. Wherrett, *The Miracle of Empty Beds: A History of Tuberculosis in Canada* (Toronto: University of Toronto Press, 1977), p. 107.

173 NAC RG10, volume 4092, file 546898, MR C 10187, To W. Graham from Dr. F.A. Corbett, 1922; and volume 3918, file 116659-1, MR C 10161, To J. Smith from the Assistant Deputy and Secretary, 29 March 1918.

174 NAC RG10, volume 6482, file 941-2, MR C 8796, To J. Plourde from H. McGill, 10 February 1940.

175 See, for example, NAC RG10, volume 4092, file 546898, MR C 10187, To D.C. Scott from W. Graham, 7 December 1920 and To W. Graham from H.N. Kennedy, MD, 7 January 1922; volume

8451, file 655/23-5, MR C 13801, To H. McGill from M. Christianson 25 January 1935; volume 6446, file 881-23, MR C 8770, To R.H. Moore from C. Pitts, MD, 22 October 1935; and Wherrett, *The Miracle of Empty Beds* (cited in note 172), p. 109.

176 Bryce, *A National Crime* (cited in note 169), p. 14.

177 NAC RG10, volume 6462, file 888-1, MR C 8781, To D.C Scott from Reverend A. Lett, 6 March 1922.

178 NAC RG10, volume 8448, file 506/23-5-014, MR C 13800, Inspection Report on Birtle School, A. Hamilton, 4 December 1936.

179 NAC RG10, volume 6332, file 661-1 (1-2) MR C 9809, To W. Graham from L. Affleck, 15 November 1929.

180 NAC RG10, volume 3933, file 117657-1, MR C 10164, To D.C. Scott from W. Graham, 10 October 1914.

181 NAC RG10, volume 3918, file 116659-1, MR C 10161, To the Assistant Deputy and Secretary from J. Smith, 8 February 1918; and volume 6479, file 940-1 (1-2), MR C 8794, To the Deputy Superintendent General from E. Stockton, 29 November 1912.

182 NAC RG10, volume 6426, file 875-1-2-3-5, MR C 8754, Inspection Report, Alert Bay Boys School, British Columbia, R.H Cairns, 27 April 1926.

183 NAC RG10, volume 6451, file 883-1 (1-2), MR C 8773, Inspection Report, Kitamaat School, Kitamaat, British Columbia, R.H. Cairns, 19 April 1926.

184 NAC RG10, volume 6309, file 654-1, MR C 8685, To W. Graham from J. Waddy, 15 October 1930.

185 NAC RG10, volume 3918, file 116659-1, MR C 10161, To the Assistant Deputy and Secretary from J. Smith, 29 March 1918; and To the Assistant Deputy and Secretary from F.V. Agnew, MD, 18 June 1918.

186 NAC RG10, volume 6332, file 661-1 (1-2), MR C 9809, To W. Graham from R. Murison, 29 June 1929.

187 NAC RG10, volume 3918, file 116659-1, MR C 10161, To D.C. Scott from J. Salles, 2 April 1917.

188 NAC RG10, volume 3933, file 117657-1, MR C 10164, To W. Graham from C. Stockdale, July 1914.

189 NAC RG10, volume 6262, file 578-1 (4-5), MR C 8653, Report of Dr. A.B. Simes on Elkhorn School, 19 October 1944.

190 NAC RG10, volume 6332, file 661-1 (1-2), MR C 9809, To W. Graham from L. Affleck, 15 November 1929.

191 NAC RG10, volume 6041, file 160-5, MR C 8153, To H. McGill from U. Langlois, 28 April 1928.

192 NAC RG10, volume 3918, file 116659-1, MR C 10161, To the Assistant Deputy and Secretary from J. Smith, 8 February 1918. For other examples, see volume 6039, file 160-1, MR C 8152, To Reverend C. Bouillet from J.T. Ross, 25 January 1919; file 160-2, part 4, To B. Neary from Canon Cook, 5 July 1950; and volume 6040, file 160-3A, MR C 8153, To D.C. Scott from T. Ferrier, 2 July 1917.

193 INAC file 951/23-5, volume 1, To the Secretary from a Principal, 15 April 1934.

194 INAC file 6-37-1, volume 1, Memorandum for Dr. H. McGill from R.A. Hoey, 13 February 1937.

195 NAC RG10, volume 6327, file 660-1 (1-3), MR C 9807, To Reverend C. Cahill from D.C. Scott, 1 March 1917. Qu'Appelle School was located outside Lebrett, Saskatchewan.

196 NAC RG10, volume 8448, file 506/23-5-019, MR C 13800, Inspection Report on Birtle School, A. Hamilton, 4 December 1936.

197 NAC RG10, volume 6327, file 660-1 (1-3), MR C 9807, To D.C. Scott from W. Graham, 18 October 1916.

198 INAC file 772/23-5-010, volume 1, Inspection Report, Morley School, located at the Morleyville Settlement on the Stony reserve, Saskatchewan, L.G.P. Waller, 31 October 1952.

199 NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To D.C. Scott from J.R. Bunns, 24 September 1915; volume 6262, file 578-1 (4-5), MR C 8653, Report of Dr. A.B. Simes, Elkhorn School, 19 October 1944; volume 6426, file 875-1-2-3-5, MR C 8756, Inspection Report on Alert Bay Boys School, Inspector R.H. Cairns, 27 April 1926.

200 NAC RG10, volume 6452, file 884-1 (1-3), MR C 8773-8774, Memorandum, Assistant Commissioner Perry, 16 June 1930. See also volume 6479, file 940-1 (1-2), MR C 8794, To the Deputy Superintendent from E. Stockton, 29 November 1912.

201 NAC RG10, volume 6455, file 885-1 (1-2), MR C 8777, Inspection Report, Kuper Island School, R.H. Cairns, 9 November 1922.

202 NAC RG10, volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897.

203 See NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To D.C. Scott from J.R. Bunns, 25 September 1915; volume 6309, file 654-1, MR C 8685, To W. Graham from J. Waddy, 15 October 1930; volume 6451, file 883-1 (1-2), MR C 8773, To the Secretary from I. Foughner, 15 June 1922; and volume 8754, file 651/25-1,

MR C 9701, To the Director from R.S. Davis, 15 July 1942.

204 NAC RG10, file 150-44, MR C 8149, Health Aspects in Relation to Food Service, Indian Residential Schools, November 1946.

205 INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

206 INAC file 116/25-13, Operation of Government-Owned Residential Schools on a Controlled Cost Basis, April 1958.

207 INAC file 1/18, volume 1, To the Secretary, Treasury Board, from L. Fortier, 25 November 1958.

208 INAC file 601/25-2, volume 2, R.F. Davey, Residential Schools Past and Future, 8 March 1968.

209 INAC file 6-21-1, volume 4, The National Association of Principals and Administrators of Indian Residences, Brief Presented to the Department of Indian Affairs, 1968.

210 INAC file E4974-1, volume 1, The Canadian Welfare Council, "Indian Residential Schools æ A research study of child care programs of nine residential schools in Saskatchewan", p. 91.

211 INAC file 6-21-1, volume 4, The National Association of Principals and Administrators of Indian Residences, Brief Presented to the Department of Indian Affairs, 1968.

212 INAC file 6-21-1, volume 4, Memorandum on the Brief æ National Association of Principals, R.F. Davey, 11 January 1968.

213 INAC file 6-21-1, volume 4, Memorandum on the Brief æ National Association of Principals, R.F. Davey, 11 January 1968.

214 INAC file 6-21-1, volume 4, To Reverend J. Levaque from J.A. Macdonald, 28 May 1968.

215 INAC file 6-21-1, volume 4, The National Association of Principals and Administrators of Indian Residences, Brief Presented to the Department of Indian Affairs, 1968.

216 NAC RG85, volume 1224, file 630/110-3 (6), To R.G Robertson from---, 19 November 1957. Correspondent not identified for reasons of confidentiality (see note 1).

217 NAC RG85, volume 1338, file 600-1-5, Report on Coppermine Tent Hostel, A Teacher, 1 August 1959.

218 INAC file 1/25-1, volume 22, To R.F. Davie [sic] from---, Consultant Psychologist, 10 April 1969.

219 INAC file 1/1-18, volume 1, To the Secretary, Treasury Board, from L. Fortier, 25 November 1958.

220 See, for example, INAC file 501/25-13-067 volume 3, Memorandum to File, Mr. Chapple, 11 May 1967; file 1/25-13, volume 12, To R.F. Davey from Canon T. Jones, 28 September 1966; and Treasury Board Submission, Food and Clothing Allowances, Indian Residential Schools, 25 July 1966; file 44/25-2, To Regional Supervisor North Bay from R.F. Hall, 10 July 1964; file 676/25-13-005, volume 2, Food Services Report, Beauval School, 20 September 1962.

221 INAC file 601/25-13, volume 2, To I. Robson from Reverend G. Gauthier, 17 November 1969.

222 For a similar situation, see INAC file 1/25-1-4-1, To J. Boys from R.F. Davey, 15 August 1969.

223 NAC RG10, volume 3922, file 116820-1A, MR C 10162, To Archdeacon J. Mackay from the Deputy Superintendent General, 1 March 1895.

224 See, for example, NAC RG10, volume 3674, file 11422-4, MR C 11422, To E. Dewdney from Reverend J. Hugonard, 5 May 1891; and file 16836, MR C 10162, To F. Pedley from J. McKenna, J. Menzies and R. MacKay, 11 March 1904.

225 See NAC RG10, volume 3920, file 116818, MR C 10161, To the Deputy Superintendent General from Martin Benson, 12 August 1903; and volume 3925, file 116823-1A, To the Deputy Superintendent General from M. Benson, 1 June 1903.

226 NAC RG10, volume 3927, file 16836-1A, MR C 10162, To the Deputy Superintendent General from M. Benson, 17 March 1904.

227 NAC RG10, volume 10411, Shannon Box 36, MR C 10068, Circular, R. Ferrier, 19 January 1922.

228 INAC file 1/25-1-4-1, volume 2, To H.M. Jones from L.B. Pett, MD, 7 January 1954.

229 INAC file 501/25-13-075, volume 2, To Reverend A. Masse from R.F. Davey, 6 November 1962.

230 INAC file 701/25-1-4-1, volume 1, To Reverend P. Hudon from R.F. Davey, 7 March 1966. For other examples, see file 779/25-13-012, volume 1, To Dr. P.E. Moore from H. Jones, 30 October 1961; file 772/25-1-002, volume 1, To N. Goater from R.F. Davey, 19 June 1961; file 775/25-1-006, volume 1, To Reverend G. Montmigny from P. Deziel, 13 July 1961.

231 NAC RG10, volume 7194, file 511/25-1-015, MR C 9700. The diet at Brandon school, which was condemned by nutritionists, was allowed to remain wholly inadequate for more than six years, from 1950 to 1957.

232 NAC RG10, volume 6264, file 578-1 (4-5), MR C 8653, To Indian Affairs Branch from A. Hamilton, 22 September 1944. Elkhorn School was erected just outside the town of Elkhorn, Manitoba.

233 NAC RG10, volume 6859, file 494/25-2-014, MR C 13727, To F. Foss from the Bishop of Keewatin, 31 October 1960.

234 Nock, *A Victorian Missionary* (cited in note 24), p. 5.

235 Davin Report (cited in note 6).

236 INAC file 501/29-4, volume 9, To Sir John A. Macdonald from L. Vankoughnet, 26 August 1887.

237 NAC RG10, volume 3647, file 8128, MR C 10113, To Indian Commissioner, Regina, from J.A. Macrae, 18 December 1886.

238 NAC RG10, volume 3674, file 11422-2, MR C 110118, To the Indian Commissioner from Reverend A. Lacombe, 2 June 1885. High River Industrial School, also called St. Joseph's, was located near Davisburg, Alberta.

239 NAC RG10, volume 3920, file 116818, MR C 10161, To the Indian Commissioner from C. Somerset, 1 November 1900.

For an excellent description of school routine, see Jacqueline Gresko, "Creating Little Dominions Within the Dominion: Early Catholic Indian Schools in Saskatchewan and British Columbia", in *Indian Education in Canada*, ed. J. Barman, Y. Hébert and D. McCaskill (Vancouver: University of British Columbia Press, 1986), Volume 1: The Legacy, pp. 93-109.

240 NAC RG10, volume 6430, file 876-1, MR C 8759, Inspection Report on Alberni School, G. Barry, 25 April 1934.

241 NAC RG10, volume 6205, file 468-1, (1-3), MR C 7937, To A. Moore from A. McKenzie, 9 January 1934. Mount Elgin School was located at Muncey, Ontario.

242 NAC RG10, volume 3674, file 11422-4, MR C 110118, To E. Dewdney from Reverend E. Claude, 29 October 1887.

243 NAC RG10, volume 6452, file 888-1 (2-3, 6-7), MR C 8773-8774, To the Bishop of Westminster from L. Vankoughnet, 17 October 1889.

244 NAC RG10, volume 3920, file 116818, MR C 10161, To Assistant Commissioner from H. Reed, 28 June 1895.

245 NAC RG10, volume 3920, file 116818, MR C 10161, To Assistant Commissioner from H. Reed, 28 June 1895.

246 See, for example, NAC RG10, volume 6187, file 461-1 (1-2),

MR C 7922, To J. Edmison from J. McLean, 4 August 1917; and volume 6251, file 575-1 (1,3), MR C 8645, To Reverend A. Grant from J. McLean, 12 December 1912.

247 NAC RG10, volume 3920, file 116818, MR C 10161, To the Indian Commissioner, Regina, from D. Clink, 4 June 1896. The school was near Red Deer, Alberta.

248 NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To the Secretary from D. Laird, 11 September 1907. The school was located close to Norway House reserve on Little Playgreen Lake in Manitoba.

249 NAC RG10, volume 6268, file 581-1 (1-2), MR C 8657, To the Secretary from D. Laird, 11 September 1907.

250 NAC RG10, volume 6187, file 461-1 (1-2), MR C 7922, To J. Edmison from J. McLean, 4 August 1917.

251 See, for example, NAC RG10, volume 6309, file 654-1 (1), MR C 8685, To R. Hoey from G. Castledon, MP, 19 February 1941. In this case, which is a direct parallel to the one brought forward by Laird, the young boy, having run away, froze to death. Departmental files contain many other examples.

252 NAC RG10, volume 7194, file 511/25-1-015, MR C 9700, To P. Phelan from R.S. Davis, 25 October 1951.

253 NAC RG10, file 6436, file 878-1 (1-3), MR C 8762, To the Secretary from A. Vowell, plus attachments, 17 March 1902.

For a history of this incident and others at Williams Lake, see Elizabeth Furniss, *Victims of Benevolence: Discipline and Death at the Williams Lake Residential School, 1891-1920* (Williams Lake: Cariboo Tribal Council, 1992). Williams Lake industrial school was at Williams Lake, and Lejac was on Fraser Lake, in the northern part of British Columbia.

254 NAC RG10, volume 6443, file 881-1 (1-3), MR C 8767, To H. McGill from D. MacKay, 25 March 1937.

255 NAC RG10, volume 6348, file 752-1, MR C 8705, To Reverend J. Rioui from D.C. Scott, 16 December 1901. The school was located south of Cluny, Alberta, on the Blackfoot reserve.

256 NAC RG10, volume 6348, file 752-1, MR C 8705, To Reverend J. Rioui from D.C. Scott, 16 December 1901.

257 NAC RG10, volume 6452, file 884-1 (1-3), MR C 8773-8774, To the Bishop of Westminster from L. Vankoughnet, 17 October 1889.

258 NAC RG10, volume 3920, file 116818, MR C 10161, To the Assistant Commissioner from H. Reed, 28 June 1895.

259 NAC RG10, volume 6268, file 581-1 (1-2) MR C 8657, To the Secretary from D. Laird, 11 September 1907.

260 See NAC RG10, volume 6462, file 888-1 (2-3, 6-7), MR C 8781, To R.A. Hoey from Reverend C. Hives, 21 June 1943; volume 6200, file 466-1 (1-5), MR C 7633, To Reverend H. Snell from H. Craig, 29 July 1937, and attached correspondence; volume 6187, file 461-1 (1-2), MR C 7922, To Reverend A. Grant from the Secretary, 11 April 1916; volume 6342, file 750-1, MR C 8699, To D.C. Scott from J. Pugh, 25 January 1928, and attached correspondence; volume 6309, file 654-1, MR C 8685, To the Secretary from T. Robertson, 10 November 1938, and attached correspondence; and volume 6479, file 940-1 (1-2), MR C 8794, To the Superintendent General from Reverend H. Grant, 5 February 1940.

261 NAC RG10, volume 6348, file 752-1, MR C 8705, To Reverend J. Rioui from D.C. Scott, 16 December 1901.

262 NAC RG10, volume 6027, file 117-1-1, MR C 8147, Report on Crowstand School, W. Graham, 4 July 1907, and attached correspondence; To Reverend A. Grant from D.C. Scott, 19 September 1914. Crowstand School was located on Côté's reserve near Kamsack, Saskatchewan.

263 NAC RG10, volume 6358, file 758 (1-2), MR C 8713, To D.C. Scott from W. Graham, 25 December 1919, and attached correspondence.

264 NAC RG10, volume 6267, file 580-1 (1-3), MR C 8656, To W. Graham from J. Waddy, 1 September 1924, and attached correspondence. The school was located just outside The Pas.

265 NAC RG10, volume 6267, file 580-1 (1-3), MR C 8656, To W. Graham from J. Waddy, 1 September 1924, and attached correspondence.

266 NAC RG10, volume 6267, file 580-1 (1-3), MR C 8656, To D.C. Scott from W. Graham, 30 November 1931.

267 NAC RG10, volume 6039, file 160-1, MR C 8152, To J. McLean from M. Benson, 15 July 1897.

268 NAC RG10, volume 3920, file 116818, MR C 10161, To the Deputy Superintendent General from M. Benson, 12 August 1903.

269 NAC RG10, volume 6436, file 878-1 (1-3), MR C 8762, To the Assistant Deputy and Secretary from A. Daunt, 16 August 1920.

270 NAC RG10, volume 6041, file 160-5, part 1, MR C 8153, To Reverend J. Guy, from D.C. Scott, 11 July 1926. The school was located in Shubenacadie, Nova Scotia.

271 NAC RG10, volume 6320, file 658-1, MR C 8692, To His Parents from Edward B., 14 December 1923. The school was

located close to Lloydminster, Saskatchewan.

272 NAC RG10, volume 6320, file 658-1, MR C 9802, To F. Mears from D.C. Scott, 11 January 1924. See also, To the Secretary from L. Turner, 23 March 1921.

273 NAC RG10, volume 6455, file 885-1 (1-2), MR C 8777, To the Secretary from W. Ditchburn, 31 October 1912.

274 See, for example, NAC RG10, volume 6191, file 462-1, MR C 7926, To J. McLean from H. Jackson, 9 September 1921, and attached correspondence; volume 7190, file 493/25-1-001, MR C 9698, To Mrs. L. Pinsonnault from J. McLean, 11 July 1924, and attached correspondence; and volume 8799, file 487/25-13-015, MR C 9718, To the Head of the Secretariat from V.M. Gran, 9 August 1965.

275 INAC file 501/25-1-067, volume 1, memo from A. Hamilton, 1949. See also "Manual of Instructions for Use in Government-Owned and Operated Student Residences", 1 January 1962.

276 Several works have been published that are memoirs by former students or based on interviews with students. See, for example, Celia Haig-Brown, *Resistance and Renewal: Surviving the Indian Residential School* (Vancouver: Tillacum Library, 1988); Isabelle Knockwood with Gillian Thomas, *Out of the Depths, The Experiences of Mi'kmaq Children at the Indian Residential School at Shubenacadie, Nova Scotia* (Lockeport, Nova Scotia: Roseway Publishing, 1992); Basil H. Johnston, *Indian School Days* (Toronto: Key Porter Books Limited, 1988); G. Manuel and M. Posluns, *The Fourth World* (Don Mills: Collier-Macmillan Canada Ltd., 1974); Linda Jaine, ed., *Residential Schools: The Stolen Years* (Saskatoon: University [of Saskatchewan] Extension Press, 1993); Geoffrey York, *The Dispossessed: Life and Death in Native Canada* (Toronto: Lester & Orpen Dennys, 1989); Assembly of First Nations, *Breaking the Silence, An Interpretive Study of Residential School Impact and Healing as Illustrated by the Stories of First Nations Individuals* (Ottawa: First Nations Health Commission, 1994). See also the transcripts of the hearings of the Royal Commission on Aboriginal Peoples, which contain testimony from former students about their school experience and subsequent lives. (For information about transcripts, see *A Note About Sources* at the beginning of this volume.)

277 Mary Carpenter, "Recollections and Comments: No More Denials Please", *Inuktitut* 74 (1991), pp. 56-61.

278 INAC file 1/25-20-1, volume 1, To Miss---from L. Jampolsky, 16 February 1966, and attached correspondence. The student opinions were circulated at the conference in an unpublished pamphlet, "Indian Viewpoints Submitted for the Consideration of the Residential School Principals' Workshop, Elliot Lake, Ontario". Copies exist in church archives.

279 There were many incidents of runaway children being injured or killed accidentally. See, for example, INAC file 451/25-2-004,

volume 2, To H.B. Rodine from a Principal, 9 September 1968 æ a young boy struck by a train and killed; file 961/25-1, volume 1, Telegram to R.F. Davey from W. Arneil, 19 January 1959 æ two girls drowned; file 601/25-13, volume 3, Circular, Saskatchewan Region, E. Korchinski, 16 March 1971, and attached correspondence æ death of two young boys from exposure; and file 487/25-1-014, volume 1, To the Acting Minister from R.F. Battle, 26 January 1967, and attached correspondence æ the death of a boy from exposure.

280 INAC file E4974-2018, volume 1, To G. Sinclair from H. Lammer, 22 June 1981. The school was on Muscowequan's reserve near Lestock, Saskatchewan.

281 INAC file 487/25-1, volume 1, Memorandum to the Deputy Minister, 1 November 1907 and attachment. The school was located in Kenora, Ontario.

282 INAC file 501/25-1-064, volume 1, To D. Neild from R.F. Davey, 19 November 1953, and attached correspondence.

283 NAC RG10, volume 3674, file 11422-2, MR C 110118, To the Indian Commissioner from Reverend A. Lacombe, 12 June 1885.

284 See, for example, NAC RG10, volume 7194, file 511/25-1-015, MR C 9700, Inspection Report on Brandon school, 1950, and attached correspondence; and INAC file 501/25-1-067, volume 1, To D.M. MacKay from R.S. Davis, 4 March 1949.

285 NAC RG10, volume 6859, file 494/25-2-014, MR C 13727, To F. Foss from the Bishop of Keewatin, 31 October 1960. The school was located near Sioux Lookout, Ontario.

286 NAC RG10, volume 6205, file 468-1 (1-3), MR C 7937, To A. Moore from A. Mackenzie, 9 January 1934.

287 INAC file 777/23-5-007, volume 1, memo from P. Phelan, 24 April 1945.

288 NAC RG10, volume 6027, file 117-1-1, MR C 8147, To the Secretary from R. Blewett, 21 May 1913.

289 NAC RG10, volume 3933, file 117657-1, MR C 10164, To the Assistant Deputy Superintendent General from the Agent, Blood Reserve, 18 July 1918.

290 INAC file 853/25-1, volume 2, To the Honourable J.W. Pickersgill from a Catholic Bishop, 12 November 1956.

291 INAC file 1/25-20-1, volume 1, To Miss---from L. Jampolsky, 16 February 1966, and attached correspondence.

292 INAC file E4974-1, volume 1, The Caldwell Report, p. 151.

293 INAC file E4974-1, volume 1, The Caldwell Report, p. 61.

294 INAC file 1/25-13-2, volume 1, memo from G. Caldwell, 18 July 1967.

295 INAC file 1/25-1, volume 22, To R.F. Davie [sic] from---, Consultant Psychologist, 10 April 1969. See attached Report on Psychological Consultation Trip to the Keewatin Area, January 8-22, 1969.

296 INAC file 81/25-1, volume 1, To T.A. Turner from G.S. Lapp, 28 August 1964. See also file 1/25-1 volume 35, Memo on Education for J.B. Bergevin, 15 September 1969.

297 INAC file 1/25-1-7-3, volume 2, To Mrs. G. Long from J.B. Bergevin, 2 July 1970.

298 INAC file 81/25-1, volume 1, Memo on Education for J.B. Bergevin, 2 July 1969.

299 INAC file E6575-18-2, volume 01 (Protected), To the Honourable Kim Campbell from Grand Chief Edward John, 18 December 1992, and attachment, "First Nations Leaders in B.C. Call for Specific Actions Following the Bishop O'Connor Case". This call had been prompted by the dropping of the case against the bishop.

300 INAC file E6575-18-2, volume 01 (Protected), To the Honourable Kim Campbell from Grand Chief Edward John, 18 December 1992, and attachment.

301 INAC file E6575-18-2, volume 01 (Protected), To the Honourable Kim Campbell from Grand Chief Edward John, 18 December 1992, and attachment.

302 INAC file E6575-18-2, volume 4, To the Honourable Tom Siddon from Chief Ed Metatawabin, 15 November 1990.

303 See, for example, NAC RG10, volume 3711, file 19850, MR C 10125, To L. Vankoughnet from E. Dewdney, 12 July 1888; and INAC file 1/25-20-1, volume 1, To L. Jampolsky from---, an ex-student, 24 December 1965.

304 NAC RG10, volume 3920, file 116818, MR C 10161, To the Indian Commissioner from D. Clink, 4 June 1896.

305 NAC RG10, volume 3922, file 116820-1, MR C 10162, To D. Laird from F. Pedley, 25 February 1905.

306 NAC RG10, volume 6251, file 575-1 (1, 3), MR C 8645, To D.C. Scott from G. Campbell, 1 February 1915.

307 INAC file E6575-18, volume 10, To J. Fleury, Jr. from J. Tupper, 19 June 1990.

308 INAC file E6575-18, volume 13, House Response, J. Cochrane, 24 April 1992. This was a departmental estimate.

309 "Abuse report too hot, shelved æ Author says study revealed epidemic", *Winnipeg Free Press*, 24 July 1992. The story refers to a report, *A New Justice for Indian Children*, compiled by the Child Advocacy Project of the Children's Hospital, Winnipeg, which studied conditions on Manitoba reserves.

310 See, for example, INAC file E6575-18-2, To C. Belleau from R. Frizell, 1 June 1989 and attached correspondence; To J. Cochrane from M. Sims, 16 April 1993; To D. Mullins from R. Frizell, 2 June 1989; file E6575-18, volume 10, To H. Swain from N.D. Inkster, 10 December 1990, and attached correspondence; To J. Bray from H. McCue, Communications Strategy and Press Line, 20 July 1990, and attachment, "Frappier Case in the Yukon and Memorandum æ Examples of First Nations Communities Responding to Residual Effect of Abuse in Residential Schools", 21 June 1990; and Terry Glavin, "Anglican Priest faces sex counts in new trial", *The Vancouver Sun*, 29 May 1989, p. A9.

311 See, for example, NAC RG10, volume 6262, file 578-1 (4-5), MR C 8653, To R.A. Hoey from D.J. Allan, 4 March 1944, and attached correspondence; and volume 6451, file 883-1 (1-2), MR C 8773, To the Secretary from I. Foughner, 15 June 1922, and attached correspondence.

312 INAC file E6575-18, volume 10, Press Line æ Child Sexual Abuse in Indian Residential Schools, 20 July 1990.

313 "Reports of sexual abuse may be low, expert says", *The Globe and Mail*, 1 June 1990, p. A3.

314 The report is noted in INAC file E6575-18, volume 10, Communications Strategy, Child Sexual Abuse in Residential Schools, n.d.

315 INAC file E6757-18, volume 13, *A New Justice for Indian Children*, Child Advocacy Project, Children's Hospital, Winnipeg, 1987, p. 24.

316 INAC file E6757-18, volume 13, Memorandum for the Deputy Minister from J. Cochrane, 6 June 1992, and attachment, "First Nations Health Commission æ May 1992 æ Proposal, Indian Residential School Study, Draft No. 4". For further discussion of the effects, see L. Bull, "Indian Residential Schooling: The Native Perspective", and N.R. Ing, "The Effects of Residential Schools on Native Child-Rearing Practices", *Canadian Journal of Native Education* 18/supplement (1991).

317 The Canadian Conference of Bishops, "Let Justice Flow Like a Mighty River", brief to RCAP (Ottawa: CCCB, 1995), p. 16.

318 INAC file E6575-18-2, volume 4, To The Honourable Tom Siddon from John Siebert et al., Aboriginal Rights Coalition, August

1992.

319 INAC file E6575-18, volume 10, To Bill Van Iterson from J. Fleury, Jr., 21 June 1990.

320 INAC file E 6575-18-2, volume 04, To Mr. T. Siddon from ---, 1 November 1990.

321 INAC file E4974-1, volume 1, Unedited Transcript, Statements by Members, Rod Murphy (Churchill), 19 November 1990.

322 INAC file E6575-18-2, volume 04, To S. Morton from R. Bélair, 8 February 1991.

323 INAC file E6575-18, To J. Fleury, Jr. from J. Tupper, 19 June 1990.

324 INAC file E4974-1 volume 1, Pressline: The First Canadian Conference on Residential Schools Government's Response, 21 June 1991.

325 INAC file E6575-18-2, volume 01 (Protected), Child Sexual Abuse in Residential Schools, Memorandum for the Deputy Minister from W. Van Iterson, 11 June 1990.

326 INAC file E6575-18 volume 10, Communications Strategy, Child Sexual Abuse in Residential Schools, Draft, 1990.

327 INAC file 6575-18-2, volume 01 (Protected), To Bill Van Iterson from J. Fleury, Jr., 21 June 1990.

328 INAC file E6575-18-2, volume 04, To --- from Tom Siddon, MP, 14 December 1990.

329 INAC file E6575-18, House Response, J. Cochrane, 24 April 1992.

330 INAC file E6575-18-2, volume 04, To John Siebert from Tom Siddon, MP, 15 December 1992.

331 INAC file E6575-18, volume 10, Briefing Card æ Will the Minister of the Department of Indian Affairs and Northern Development call an inquiry into sexual abuse of Indian children by teachers and clergymen at boarding schools?

332 INAC file E6575-18-2, volume 04, To R. Bélair, MP, from S. Martin, 12 March 1991.

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334 INAC file E6575-18, volume 10, Communications Strategy,

Child Sexual Abuse in Residential Schools, Draft, 1990.

335 INAC file E6575-18, volume 13, House Response, J. Cochrane, 24 April 1992.

336 INAC file E6575-18, volume 10, Communications Strategy, Child Sexual Abuse in Residential Schools, Draft, 1990.

337 Parliament, Special Joint Committee of the Senate and the House of Commons appointed to continue and complete the examination of the Indian Act, *Minutes of Proceedings and Evidence*, No. 30 (1947), p. 1609.

338 R.S.C. 1985, chapter I-11. See generally, Law Reform Commission of Canada, *Administrative Law: Commissions of Inquiry*, Working Paper 17 (1977). Section 2 of the *Inquiries Act* confers broad powers on the federal government in this regard:

The Governor in Council may, whenever the Governor in Council deems it expedient, cause inquiry to be made into and concerning any matter connected with the good government of Canada or the conduct of any part of the public business thereof.

See also *North West Grain Dealers Association* v. *Hyndman* (1921), 61 D.L.R. 548 (Man. C.A.), p. 563: "The words in the Inquiries Act, "good government of Canada," are broad, general and designedly used, and extend to all matters and considerations that come within the Federal jurisdiction."

339 See Denise Réaume and Patrick Macklem, "Education for Subordination: Redressing the Adverse Effects of Residential Schooling", research study prepared for RCAP (1994).

340 Gerald E. Le Dain, "The Role of the Public Inquiry in Our Constitutional System", in *Law and Social Change*, ed. Jacob S. Ziegel (Toronto: Osgoode Hall Law School, York University, 1973), p. 85. See also Ontario Law Reform Commission, *Report on Public Inquiries* (Toronto: 1992), pp. 9-10.

341 RCAP transcripts, Rankin Inlet, Northwest Territories, 19 November 1992.

342*Law Reform Commission of Canada, Administrative Law* (cited in note 338), pp. 19-20.

This is Exhibit "B"
to the Affidavit of Larry Philip Fontaine
Sworn Ottawa 2006 July 28, 2006

Commissioner for taking affidavits

Indian and Northern Affairs Canada
Affaires indiennes et du Nord Canada
Canada

Statement of Reconciliation

Learning from the Past

As Aboriginal and non-Aboriginal Canadians seek to move forward together in a process of renewal, it is essential that we deal with the legacies of the past affecting the Aboriginal peoples of Canada, including the First Nations, Inuit and Métis. Our purpose is not to rewrite history but, rather, to learn from our past and to find ways to deal with the negative impacts that certain historical decisions continue to have in our society today.

The ancestors of First Nations, Inuit and Métis peoples lived on this continent long before explorers from other continents first came to North America. For thousands of years before this country was founded, they enjoyed their own forms of government. Diverse, vibrant Aboriginal nations had ways of life rooted in fundamental values concerning their relationships to the Creator, the environment, and each other, in the role of Elders as the living memory of their ancestors, and in their responsibilities as custodians of the lands, waters and resources of their homelands.

The assistance and spiritual values of the Aboriginal peoples who welcomed the newcomers to this continent too often have been forgotten. The contributions made by all Aboriginal peoples to Canada's development, and the contributions that they continue to make to our society today, have not been properly acknowledged. The Government of Canada today, on behalf of all Canadians, acknowledges those contributions.

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, 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.

Against the backdrop of these historical legacies, it is a remarkable tribute to the strength and endurance of Aboriginal people that they have maintained their historic diversity and identity. The Government of Canada today formally expresses to all Aboriginal people in Canada our profound regret for past actions of the federal government which have contributed to these difficult pages in the history of our relationship together.

One aspect of our relationship with Aboriginal people over this period that requires particular attention is the Residential School system. This system separated many children from their families and communities and prevented them from speaking their own languages and from learning about their

heritage and cultures. In the worst cases, it left legacies of personal pain and distress that continue to reverberate in Aboriginal communities to this day. Tragically, some children were the victims of physical and sexual abuse.

The Government of Canada acknowledges the role it played in the development and administration of these schools. Particularly to those individuals who experienced the tragedy of sexual and physical abuse at residential schools, and who have carried this burden believing that in some way they must be responsible, we wish to emphasize that what you experienced was not your fault and should never have happened. To those of you who suffered this tragedy at residential schools, we are deeply sorry.

In dealing with the legacies of the Residential School system, the Government of Canada proposes to work with First Nations, Inuit and Métis people, the Churches and other interested parties to resolve the longstanding issues that must be addressed. We need to work together on a healing strategy to assist individuals and communities in dealing with the consequences of this sad era of our history.

No attempt at reconciliation with Aboriginal people can be complete without reference to the sad events culminating in the death of Métis leader Louis Riel. These events cannot be undone; however, we can and will continue to look for ways of affirming the contributions of Métis people in Canada and of reflecting Louis Riel's proper place in Canada's history.

Reconciliation is an ongoing process. In renewing our partnership, we must ensure that the mistakes which marked our past relationship are not repeated. The Government of Canada recognizes that policies that sought to assimilate Aboriginal people, women and men, were not the way to build a strong country. We must instead continue to find ways in which Aboriginal people can participate fully in the economic, political, cultural and social life of Canada in a manner which preserves and enhances the collective identities of Aboriginal communities, and allows them to evolve and flourish in the future. Working together to achieve our shared goals will benefit all Canadians, Aboriginal and non-Aboriginal alike.

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This is Exhibit "C"
to the Affidavit of Larry Philip Fontaine
Sworn Ontario, 2006 July 28, 2006

Commissioner for taking affidavits

Guiding Principles for Working Together to Build Restoration and Reconciliation

September 14, 1999

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Guiding Principles for Working Together to Build Restoration and Reconciliation

A series of eight Exploratory Dialogues was held across Canada September 1998 to May 1999. These Dialogues brought together survivors of Residential Schools attended by Aboriginal people, Aboriginal healers and leaders, counsel, and senior officials within government and church organizations. Extensive and wide ranging discussions took place over a two day period at each Dialogue on issues ranging from the residential school experience and its impacts through to quite detailed discussions around the design of dispute resolution models (often referred to for convenience as alternative dispute resolution or ADR). The discussions are summarized in Notes developed for each Dialogue. The guiding principles/lessons/values

which follow were drawn from the discussions at the Dialogues, experiences developing in the pilot dispute resolution processes, and were given expression in this form through the efforts of the participants in the Concluding Dialogue held in June, 1999.

A. PARTICIPANTS

1. ***BUILDING RELATIONSHIPS THROUGH MUTUAL RESPECT AND UNDERSTANDING***

Respect enhances our ability to see, hear and value others.

Understanding and respecting each other at the beginning creates the foundation for mutual commitments to restoration, reconciliation and respect for the future viability of all participants.

All stages in the design and implementation of a process must encourage and demonstrate respect for participants and for the process.

Respect for others does not require adopting their values or perspectives, it does require understanding and respecting their values and their needs for future viability.

Respect for oneself, for others and for the process reinforces all other principles and flows from all other principles.

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2. ***SELF DESIGN***

Those expected to use an alternative process, the survivors and the institutions affected, must be equally and mutually involved in designing it.

A key issue for many survivors is the lack of control they had over their lives at the residential schools. Therefore, the starting point of the process is the recognition of the ability of survivors to care for themselves by settling problems in a joint effort with other parties. Working with their own support mechanisms including administrative resources and personnel, and advisors (family, community, professional), and working with government and churches as equals to design a resolution process can be an important part of the healing process.

Working together to design a process within a broad framework of principles and approaches is also the best way to ensure that the process chosen will suit the particular needs of those using it - and be effective. Each process must be home grown, must fit the particular needs of the community. The perseverance to make a consensus work emanates from the pride of ownership, of building it locally.

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3. ***INCLUSIVITY***

Increasing the extent of participation in designing the process will improve the potential to create innovative, community-appropriate, and enduring processes.

Every effort should be made to encourage involvement and provide readily accessible information to foster informed decisions about involvement.

Ownership of, and commitment to, an agreement is a function of directly participating in designing the process leading to the agreement and in shaping the outcome of the process.

Direct participation is the most effective means of voluntary participation. Speaking through others often detracts from the vitality and sensitivity of being voluntary and fully engaged.

Personal stores can be very powerful in shaping personal and public decisions and in building relationships. These stories are the primary basis of sharing information, ideas and feeling within circles. Direct participation generates new connection to others, provides opportunities to share visions, and to foster the skills to participate effectively.

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4. ***EQUAL AND EQUITABLE OPPORTUNITY***

Representatives of the survivor groups must be supported so they can participate on an equal footing. Special care must be given to elders and to survivors with special needs.

People are more likely to experience the process as fair, if they are given an opportunity to participate equally in designing it.

Promoting equal opportunity for anyone interested to participate enhances:

a. commitment to design and implement the process
b. capacity for creative problem-solving
c. sensitivity of the design to all community interests, including interests based on age and gender
d. overall fairness of process
e. ability to disabled, homeless, and incarcerated to participate

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5. ***COMMUNITY PARTICIPATION***

Communities should be involved wherever possible.

Communities have borne the brunt of the residential school experience and wherever survivors agree should be aware of any redress process which is underway.

Communities should consider the role they might play in the broader reconciliation efforts which might be necessary for healing, closure, reconciliation, and renewal within the community.

The capacity of the process to engage participants in a dialogue depends on the extent that the values, needs, visions and circumstances of the community are incorporated into the design and use of the process.

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6. ***HEALTH AND SAFETY***

The health and safety of persons making disclosures of abuse must be protected at all times. Disclosure must not be made without crisis support immediately available and protocols in place.

Supports must always be available each time a person is asked to address their experiences at the school, as both initial and subsequent disclosures can create significant traumas. This applies whether the issue is raised by phone or by letter or in person.

As well, arrangements must be made to have assistance available when a survivor leaves an interview, trial, discovery or other process in which their experiences are revisited, especially if they are away from home.

Community care personnel must be grained in the treatment of personal trauma and stress arising from residential schools and must be aware when community members are engaged in a disclosure process.

Questioning of claimants by any party must always be sensitive to their past trauma.

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B. **PROCESS**

7. ***FAIR PROCESS***

Any process to resolve claims must demonstrate transparency, fairness, integrity and rigour.

It is in the interest of everyone involved in dealing with claims

that whatever process is used be seen by all as one which will fairly establish the necessary facts.

Many ways exist through which the health needs of claimants can be respected without compromising the objective integrity of the process.

Where alternatives to litigation are employed, the parties respect the right of those against whom allegations of abuse are made to defend their reputation or to make admissions and reconcile.

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8. ***HOLISTIC AND SPIRITUAL***

Within alternative processes, the broad impacts of the schools should be recognized to the extent possible.

Survivors and community leaders have described the community and inter generational impacts as including the loss of parenting skills, violence, loss of language and culture, and family and community dysfunction generally.

It is important to recognize the racism, discrimination and power imbalance that underlay the way many residential school students were treated and the need to explore creative remedies that address these systemic (larger) issues.

The broader impacts should be addressed whenever possible when redress is worked out with those whose abuse has been established.

Government and church programs developed for the broader Aboriginal community should take into account the overall impact of residential schools wherever possible.

The design and implementation of a process must:

a. Allow all relevant issues to be addressed in reaching a consensus.
b. Honour the connectedness and interdependence of all things.
c. Enable participants to recognize their responsibility for what has happened and what can happen.

Introducing and designing process involves sharing the pain and joy of working together, of sharing responsibility for a collective well being. This experience can generate a deep, often subtle, spiritual sharing among participants.

The opportunity should be provided for expressions of spirituality to emerge and be shared in designing and introducing the process, where the survivors group wishes.

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9. ***FLEXIBILITY***
Each process must be shaped to fit the specific needs of participants and affected communities.
Flexibility in design and implementation encourages trust that the process can accommodate everyone's needs and interests.

10. ***ALL DECISIONS CONSENSUS BASED***
Consensus is crucial in designing and introducing a restoration and reconciliation process.
Consensus is reached if the participants agree to "live with the outcome". It is having had the full opportunity to speak, to be heard with respect, and the earnest efforts demonstrated to understand and embrace all interests that may make it possible for the participants to "accept the total package", even it there are certain aspects of the agreement with which they do not fully agree.

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11. ***HONOUR THE PROCESS***
Honouring the process involves responsibility to the process, to each other, and to the Principles.
Participants in designing the process must act in accord with the underlying principles of restoration and reconciliation.
Participants must be accountable to each other, and to the agreements reached on design.
There must be a means to follow up commitments and to monitor expectations in realizing the overall objectives in designing and introducing the process. Following up on commitments builds confidence in, and connections to, the process. The credibility of the process significantly depends on follow-up to make adjustments and celebrate successes.

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12. ***VOLUNTARY***
Participation in alternatives to litigation should be on an entirely voluntary basis. The goal is to develop a range of choices - a wider framework of alternatives from which informed choices can be made to enter a process, or to leave it.
Survivors are from a wide range of cultural backgrounds, live

in a wide spectrum of circumstances, went to different schools at different times run by different organizations, experienced varying forms and degrees of abuse, and have varying expectations as to the ways to achieve, and what will be involved in closure and/or renewal in personal terms. As a result, different validation and redress processes may be required to meet the varying needs of survivors; every effort should be made to develop appropriate processes while respecting the core values of safety and integrity. A "one size fits all" dispute resolution process should be resisted.

Voluntary participation is the hallmark of a consensus process. Much of the power of the process flows from its voluntary nature. Giving choices is giving power. In preparing spaces and means for voluntary participation, participants must be constantly vigilant to ensure freedom from dominating and inappropriate pressures.

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13. ***FREE TO CHOOSE***

The right to make claims through the courts must be respected and maintained in any alternative processes.

Litigation remains an important way of making churches and governments accountable and may suit the needs and circumstances of some survivors, even though many feel the traditional litigation model may be inherently damaging due to its adversarial nature and may create results that prevent or block restoration.

Any survivor in an ADR process may choose to leave the process and pursue a claim through the courts at any time unless otherwise agreed.

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C. OUTCOMES

14. ***FAIR RESULT***

Any resolution process should be designed to provide for:

a. **Disclosure with safety;**
b. **Validation with sensitivity;**
c. **Remedies with flexibility;**
d. **Commemoration with respect;**
e. **Healing; closure; reconciliation; and renewal.**

Despite the abuse they suffered, survivors at all Dialogues expressed a strong desire to heal and to reconcile, and all

participants shared and supported that desire.

This desire should be supported in dispute resolution approaches and in litigation.

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15. ***APPROPRIATE REMEDIES***

For many survivors, possible elements of remedies for abuse to further the goals of healing, closure and reconciliation may include:

a. Monetary compensation.
b. Acknowledgment of the wrong done and that it was not the fault of the survivor.
c. Apologies to individuals, families and communities.
d. Active steps by churches and government to create understanding at the level of the broader community and in local communities of the extent of the abuse that took place, accompanied by efforts by the church to reduce the perception in some communities that those bringing forward abuse claims are attacking the church.
e. The creation of funds for healing, education, and cultural recovery for survivors and their families.
f. Effective access to training and other programs.
g. Memorialization and community ceremonies.
h. Commitment to future prevention activities by government, churches, and communities;
i. And any other creative remedies the participants may develop.

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16. ***EFFECTIVE LINKAGES***

Linkages to other programs and services should be made to support and complement the goal of reaching resolutions, and the timely implementation of resolutions reached. These linkages must establish connections between and among the different institutions, groups and organizations who are participants.

Given the broad impact of the abuse, those involved in designing processes and remedies should attempt to build on and where possible enhance related services already available within communities.

Individual healing foundations such as:

- Aboriginal Healing Foundation, a non-profit corporation controlled by Aboriginal people through an independent Board of Directors;
- Residential Schools Healing Fund of the Anglican Church of Canada;
- Reconciliation, solidarity and Communion Fund of the Canadian Conference of Catholic Bishops;
- Journey to Wholeness Healing Fund in the Presbyterian Church of Canada;
- Healing Fund of the United Church of Canada;
- Regional and Diocesan Funds;

each have a separate mandate and function. Survivor groups may work with their communities to develop proposals funded by these foundations for community projects which would complement the redress survivors receive as individuals.
Within institutions, organizations and groups, linkages must also be established to reconcile inconsistencies, and to integrate activities, programs, policies and procedures, across departmental and other conventional lines of authority and responsibility.

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D. TRAINING AND AWARENESS
Awareness about the issues and training in the use of these Guiding Principles and dispute resolution processes is an essential part of working together.

All participants, including governments, churches, survivors and communities, as well as, the professional advisors, decision makers, service providers and others involved in the process must recognize the need for, and be involved in, training and education about the issues and history surrounding the impact of residential schools. Before the process begins, and as the process unfolds, the need for training and education in matters such as the following must be continually addressed:

- History of residential schools;
- Impact and consequences to individuals, families, communities and cultures of First Nation people;
- Effects of trauma and stress;
- Consequences of institutionalization; and
- Dynamics of reconciliation.

Training sessions and educational workshops, developing resource and reading lists, and other initiatives, must all be a part of the shared

training and educational experience. The experience should include understanding how, in building consensus and resolving disputes, these Principles build from, reinforce, and can be applied in all ADR processes, whether conventional, traditional, or other new and developing approaches in peacemaking, restoration, and reconciliation.

Honouring the process, respecting and understanding each other requires a mutual appreciation by all parties of the importance of working together to learn through various training and educational experiences how to realize the overall process goals of healing, reconciliation and renewal.

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CLOSING COMMENTS

"These Principles are part of a searching process. They must always be used as guides, not rules -- must be respected, but not rigidly applied. Respect for these principles includes questioning how best to employ them in each situation. While innovative adaptation is fervently encouraged, minimizing any principle is fervently discouraged. The relative importance of each principle depends upon the immediate circumstances, but in no circumstances can any be ignored without imperilling the overall objective of designing and introducing a fair process. Different circumstances may draw more heavily on some principles but, in all circumstances, each principle is essential. Other principles may emerge from local experiences."

"The lessons of the Dialogues are the lessons that everyone must learn in becoming fully human and fully mature. There were individuals who engaged in abusive acts. The lesson of special significance is, however, that institutions and governments to develop lives of their own, lives whose direction sometimes contradicts their basic calling of service to communities and to individuals. This journey will end in a good place when each of us remembers our true calling."

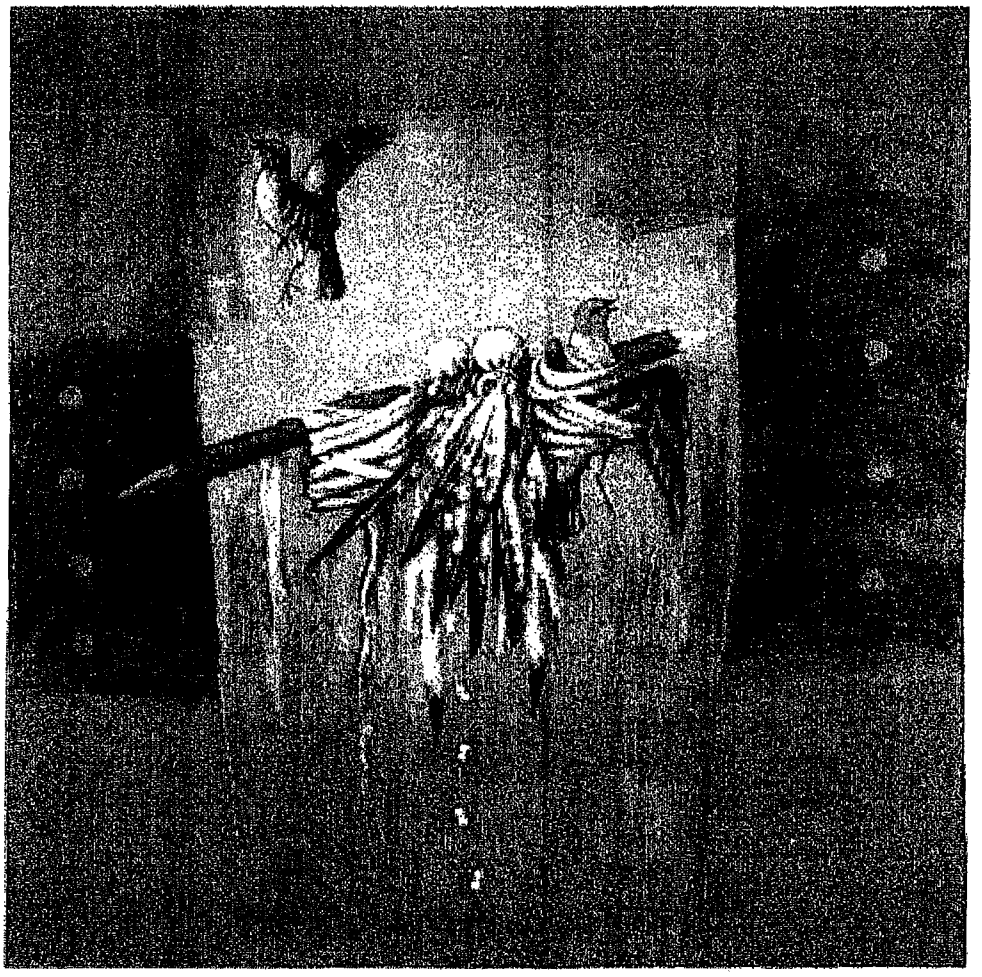
"We have come to understand that the halting steps towards progress that occurred in the Dialogues came about in those intensely human encounters, person-to-person, where position and pretense were set aside, when we saw in action our spirits touching. Those stumbling and searing attempts to reach out have created a firm foundation for the future. Progress towards restoration and reconciliation, healing, closure and renewal will be made by grasping the truth that human relationships are the heart of the matter."

"We walk in the courageous footsteps of those who first brought to our consciousness and conscience the abuse that survivors experienced at native residential schools. In the drafting of these Guiding Principles we have had before us the faces, and drawn together the voices and woven together the words, of those who told their stories in the Exploratory Dialogues across Canada."

This is Exhibit "D"
to the Affidavit of Larry Philip Fontaine
Sworn Ottawa, 2006 July 28, 2006

Commissioner for taking affidavits

Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools



Cover artwork by Dale Auger
"To heal is to be free"
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Executive Summary

Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools

1. What is the purpose of this Report?

In November, 2003, the Government of Canada launched a Dispute Resolution (DR) plan to compensate survivors of Indian Residential Schools for abuses perpetrated on them while in attendance at the schools. The goal was to fulfill the recommendations of the Royal Commission Report on Aboriginal Peoples as well as follow through on Canada's Statement of Reconciliation to survivors made in 1998.

It has become evident that the DR plan is not meeting its goals of just and fair compensation leading to reconciliation. Indeed, there is a real fear that the present system of compensation is causing additional harms to the survivors.

After a national conference in Calgary in March 2004 where the problems with the DR were objectively identified and discussed, the AFN undertook a comprehensive study with the assistance of national and international experts to determine what practical and reasonable changes can be made to the DR plan in order to make it more acceptable and accessible to survivors to achieve the final goal of fair and just compensation with reconciliation.

2. What do the Recommendations address?

The recommendations address the current DR model and its procedures and accessibility. Its scope, legal underpinnings, structure and its relationship to the residential school context, in addition to its fairness and potential for achieving reconciliation are also addressed.

The recommendations suggest an approach which gives more choices to survivors, more expedient ways to settle claims, more accurate and reflective methods of calculating compensation leading to a result which is more just, fair and mutually beneficial for survivors, the churches and Canada.

We anticipate that there will be a much higher degree of acceptance and satisfaction for survivors which will provide greater certainty, less risk and a more defensible outcome for Canada. The recommendations are supportable in civil, constitutional, aboriginal, and international law, and public policy.

Even though the primary focus of the report is the compensation plan, we stress that compensation is only part of a holistic process aimed at reconciliation, healing and compensation combined. We therefore include recommendations for a truth-sharing, healing and reconciliation process in Part II of the report.

3. What guiding principles underpin the Report?

The Report endorses and incorporates the Guiding Principles adopted by survivors, government officials and church groups through the year-long consultative dialogue process in 1999, summarized as:

1. Be inclusive, fair, accessible and transparent.
2. Offer a holistic and comprehensive response recognizing and addressing all the harms committed in and resulting from residential schools.
3. Respect human dignity and equality and racial and gender equality.
4. Contribute towards reconciliation and healing.
5. Do no harm to survivors and their families.

4. What is problematic with the government's Compensation Plan?

The current DR framework for compensation of Indian Residential School survivors is problematic in several respects. Some of the most serious problems with it are:

1. It treats survivors unequally by compensating some up to 100% of their settlements and others only 70%;
2. It treats survivors unequally by virtue of the province in which the abuse took place. If it took place in B.C., the Yukon or Ontario, survivors receive up to $50,000 more for the same injuries than survivors who live in the other provinces of Canada;
3. It assigns more than twice as many compensation points to abusive acts than it does to the consequences of the abuse while restricting compensation to a narrow range of acts, effectively lowering the amount of compensation payable. In comparison with Ireland which has a similar problems of state responsibility for mass abuses in residential schools, Canada is spending proportionately 25 times less than the government of Ireland on its compensation plan for residential school survivors. In fact, the architect of the Irish compensation model called the Canadian level of compensation "de minimus and grudgingly given."
4. It fails to address or compensate for emotional abuse, loss of family life, forced labour, and the loss of language and culture;
5. It does not have provision for interim awards;
6. The process takes too long and its administration costs are disproportionately high in comparison with the amount of awards paid out;
7. The application forms are intimidating, unnecessarily complicated and confusing;

8. It does not sufficiently take into account the healing needs of the survivors and their families;
9. It does not take gender differences into account;
10. It mistakenly limits compensation by requiring that abuse be measured by the "standards of the day";
11. It does not address the need for truth-sharing, public education and awareness for non-Aboriginal Canadian public about residential schools;
12. It incorporates legal concepts in a way which perpetuates racist stereotypes.

Despite the weaknesses and challenges of the government's DR plan, it has some very positive elements which we believe should be retained or expanded. These include the idea of the out-of-court process to settle claims, the provision for Canada to pay a percentage of legal fees, and the provision of a commemoration fund. We find that the grid concept is acceptable but must be more flexible and context-specific.

5. What is the AFN recommending?

The AFN recommends that a two-pronged approach be taken to the DR process. One prong is fair and reasonable compensation, the other prong is truth-telling, healing and public education. Some of the key recommendations are as follows:

1. A significant lump sum award must be granted to any person who attended an Indian Residential School to compensate for the loss of language and culture, irrespective of whether they also suffered the separate harms generated by sexual, physical or emotional abuse.

We are suggesting that the lump sum consist of two parts. The first part is a base amount for loss of language and culture. Each survivor will receive the same base amount for this loss.

No hearing would be required because the payment would be calculated strictly on the basis of school records. Cheques would be issued quickly and efficiently through normal administrative processes.

In the event that at some future time the courts decide that a higher lump sum should be awarded for loss of language and culture than provided by this plan, survivors will be able to claim the difference.

2. Part two of the lump sum will be awarded for each additional year or part year of attendance at an Indian Residential School to recognize emotional harms, including the loss of family life and parental guidance, neglect, depersonalization, denial of a proper education, forced labour, inferior nutrition and health care, and growing up in a climate of fear, apprehension, and ascribed inferiority. As a rule, no adjudication should be necessary for these awards to be made.

3. In addition to the lump sum, survivors must be compensated for severe emotional abuse as well as physical and sexual abuse as defined in our Report.

4. The consequences of the abuse must be weighted more heavily than the acts of abuse in the compensation calculations.

5. All survivors must be treated equally in the calculation of compensation regardless of where their abuse took place or regardless of what religious entities operated their school.

6. Gender differences must be accounted for in the calculation of compensation for acts of abuse and consequences of the abuse.

7. The acts of abuse and the consequences of the abuse must be judged by today's standards.

8. Compensation for third party abuse should have no limitations on place, knowledge of authorities or purpose for being on the school premises.

9. Race discrimination or the appearance of race discrimination, the perpetuation of negative stereotypes, and the undervaluing of harms to survivors in the awarding of compensation is completely unacceptable and must be avoided.

10. The percentage award for aggravated damages must be increased to give adjudicators more flexibility in calculating compensation for multiple abuses committed over time.

11. No award should be subject to tax nor deducted from any source of funding or support otherwise received.

12. In calculating claims for physical, sexual and severe emotional abuse, the process must be simplified to allow for early pre-hearing settlement as described in our Report.

13. There must be two adjudicators on each claim, at least one of whom is a medical or therapeutic professional trained in the field of child abuse.

14. Survivors who are 60 years or older or who are seriously ill must have their claims expedited and have access to interim payments if they present a *prima facie* case for compensation.

15. The application forms must be simplified and shortened, and community support provided in completing the forms. Requirements for gathering statements must be more flexible and government must be proactive in sending out the forms to survivors.

16. There must be a well publicized end-date for the compensation process. The AFN is recommending the date be December 31, 2010, assuming good faith on the part of Canada.

17. The Release should be re-named an "Agreement towards Reconciliation" with acknowledgement that the healing process is ongoing and Canada's responsibility for future care of survivors continues.

18. Qualifications for adjudicators must include Alternative Dispute Resolution skills, medical/therapeutic experience, and some education in the fields of child abuse, native studies, equality, and human rights. A law degree and/or recent experience as an adjudicator should be considered assets. Aboriginal adjudicators and non-Aboriginal female adjudicators should be aggressively recruited.

19. Training of adjudicators must include a First Nations community-based component as well as a gender differentiated emphasis on the medical, psychological, social and economic effects of child abuse in the residential school context.

20. The compensation plan must be in tandem with and part of a larger healing plan which includes a voluntary truth-sharing and reconciliation process designed to investigate the nature, causes, context and consequences of all the harms resulting from the residential schools legacy. This should include, but not be limited to, harms to individual survivors, First Nations communities, survivors' families, the future generations, culture, spirituality, language and relationships between and among all parties involved.

21. The truth-sharing, healing and reconciliation process designed by local and regional stakeholders must be accessible to survivors and their families. Counselling support must be provided before, during, and after the DR and the truth-sharing process.

22. The healing process must be linked to the continuation of the Aboriginal Healing Foundation.

The reader is encouraged to examine the full Report where a more fulsome explanation of all aspects of the recommendations and the rationale behind them are discussed in greater detail.

6. What benefits will be realized if the AFN's recommendations are implemented?

True reconciliation and healing are possible if our recommendations are incorporated into the existing DR model. They will help to restore the trust in the process which has been lost. The fact that a First Nations perspective has been added makes it much more responsive to victims' realities and needs and will draw many more people into the settlement process instead of going to the courts. A measure of the success of the DR process is the number of people who are willing to trust that it will produce a fair and just resolution of their claims. According to that and all of the other measures described in this Report, our recommendations should be seen as a positive and desired outcome.

Without an effective alternative method of resolving disputes, the current caseload of residential school claims against Canada is estimated to take another 53 years to conclude at a cost of $2.3 billion in 2002 dollars, *not* including the value of the actual settlement costs. To date, only 19 claims have been settled under the current DR model and the cost of administering settlements is more than triple the cost of the compensation that has been awarded.

In our proposal, a much larger percentage of the available monies would go directly to survivors or their estates and less to the administration and costs of litigation. The savings in administration, legal fees, litigation, delay and court costs should significantly, if not totally, offset the increased compensation costs. When a value is put on reconciliation and healing past harms, it clearly results in our proposal being a cost effective one.

Under the current compensation plan, many tens of thousands of residential school survivors do not qualify for compensation, while thousands of others qualify for only negligible amounts. Moreover, no survivors will receive compensation for their loss of language or culture or the loss of their family life. Our recommendations would compensate all Indian Residential School students (or their estates) with a base amount for loss of language and culture, and an additional sum awarded per each year of attendance at an Indian residential school to acknowledge the accumulation of emotional injuries.

In addition to the lump sum, we recommend compensation for individuals who experienced physical, sexual or severe emotional abuse, and consequential damage resulting from those abuses, including cost of care and loss of opportunity. Our recommendations treat all survivors equally, take race and gender differences into account, appropriately weigh the consequences of abuse more heavily than the acts of abuse, as well as allow flexibility in the methods of calculation. The result of these recommendations will be a more accurate, reasonable and fair calculation of compensation.

The pre-hearing settlement negotiation we are recommending for physical, sexual, and severe emotional abuse claims is much simpler and quicker than the current method. This brings greater certainty, less delay and huge financial savings to Canada that can be put into increased compensation for survivors.

Our recommendations provide clarity for families of deceased survivors which presently does not exist.

We have proposed a training program and a set of qualifications for adjudicators which will make the process less threatening and more reflective of equality principles.

Our proposals add the important medical perspective to the adjudication process ensuring that properly trained therapeutic experts with expertise in child abuse will evaluate the consequential harms and future care needs of survivors along with legal and other dispute resolution experts who will bring their expertise to bear on the validation of the claims.

To ensure that the adjudication perspective remains race neutral, we are recommending that Aboriginal adjudicators play a major role in the resolution of the claims.

We have made it clear that our proposals would be but a part of a holistic process with a truth-sharing component which would be created in consultation with survivors, survivors' families, secondary victims of residential school abuse, First Nation communities, religious entities, Canada and non-Aboriginal Canadians. This aspect, presently absent for the DR model, will promote healing and reconciliation.

Finally, if implemented, we believe our proposed reforms to the DR model will make it one for which Canada and Canadians can be proud. It will enhance Canada's reputation as a leader in the world for the respect of human rights at the same time increasing the stature and respect for First Peoples at home and abroad. It would also set an international standard and methodology for dealing with mass violations of human rights and will finally put behind us, in an honourable way, the most disgraceful, harmful, racist experiment ever conducted in our history.

The benefits, in point form, are as follows:

- significantly reduce delay;
- compensate survivors in an expedited way, especially for the sick and the elderly;
- provide clarity for the families of deceased survivors with respect to their eligibility to make claims;
- significantly reduce costly, traumatizing and time-consuming hearings;
- significantly reduce costs associated with the employment and training of large numbers of adjudicators;
- reduce anger and disappointment with the perceived under-compensation of survivors who did not experience sexual or physical abuse;
- achieve widespread participation from thousands of claimants who are presently in class action law suits insisting on recognition of their loss of language and culture, and deprivation of family life and parental love and guidance;
- help to restore the trust in the process which has been lost through inequities between claimants;
- lessen the risk of liability from future court decisions;

- provide a simplified process which is easily explained and executed;
- provide greater certainty for all the parties through having an end date;
- offset compensation costs by savings in administration, legal fees, litigation and court costs;
- recognize the gender differences in the harms and consequences suffered, thereby promoting gender equality and greater respect for women;
- allow survivors to tell their stories safely and have them listened to;
- enhance public awareness of the injuries and consequences of residential school abuses;
- enhance the restoration of relationships and the healing process;
- ensure such atrocities never happen again;
- enhance the reputation of Canada as a leader in the world for the respect of human rights, at the same time increasing the stature and respect for Canada's First Peoples;
- set an international standard and methodology for dealing with mass human rights violations.

Assembly of First Nations

Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools

Introduction

In March 2004, the University of Calgary, in partnership with the Assembly of First Nations (AFN), hosted the National Residential Schools Legacy Conference. The goal of the conference was to objectively and thoroughly examine Canada's dispute resolution model to determine whether it was fair, just, and acceptable to survivors such that it would ultimately lead to reconciliation and resolution. Recognized experts in law, sociology, anthropology, history, Aboriginal issues, reconciliation and restorative justice, psychology, religious studies, native studies, and political science attended the conference. Many survivors participated, including elders and others who had participated in settlements in their own communities, in the dialogue process, or in regional survivor support groups. Aboriginal political leaders attended, including the National Chief, Phil Fontaine, himself a survivor. Representatives from government also participated, notably the senior staff of the office of Residential School Resolution, including the Minister responsible, Denis Coderre and the Deputy Minister, Mario Dion. Church representatives also attended, as did lawyers representing survivors.

Amongst the approximately 200 people in attendance at the conference, there was virtual unanimity that the DR model in its present form is inadequate to meet either the government's stated goals of reconciliation or the AFN's desire for a just and fair settlement for residential school survivors. Deputy Minister Mario Dion acknowledged at the conference that there were flaws with the current DR model.

National Chief Phil Fontaine proposed to the Deputy Minister that the AFN, with the support of the Office for Residential School Resolution, strike a Task Force of nationally and internationally recognized experts to examine the current DR model in light of the findings of the March conference and develop appropriate, practical, reasonable, and fair recommendations that would lead to its wider acceptance by survivors. Mr. Dion agreed. The AFN appreciated this opportunity and through this Report has become fully involved in the discussions involving appropriate remedies for the residential school survivors.

Historical Background

In 1996, the Royal Commission on Aboriginal Peoples recommended a public inquiry to investigate and document the origins and effects of residential school policies and abuses.[1] The Federal Government responded to the Royal Commission in 1998 with a

[1] Indian Residential Schools Resolution Canada online IRSRC: http://www-irsr-rqpi.gc.ca/english/; Also see Royal Commission on Aboriginal Peoples. 1996. Final Report. Ottawa: Supply and Services Canada. http://www.ainc-inac.gc.ca/ch/rcap/sg/sgmm_e.html (accessed on June 6, 2004).

Statement of Reconciliation in which the Government acknowledged and expressed regret for the harms caused in and through residential schools.[2]

In 1999, a series of nine dialogues were held with survivors, government representatives, and church representatives, who together formulated a set of guiding principles for alternative processes to address compensation for residential school abuses.[3] A report was produced and submitted to the government for action. Following the dialogues, 12 pilot ADR projects were undertaken. The firm of Kaufman, Thomas and Associates was engaged by the Federal Government to review the work of these pilot processes.[4] This review produced a number of recommendations to assist with the design of future dispute resolution (DR) processes.

In March 2000, the Law Commission of Canada, acting by request of then Minister of Justice, the Honourable Anne McLellan, to advise the Justice Minister on the most appropriate ways to address institutional child abuse, released the report *Restoring Dignity, Responding to Child Abuse in Canadian Institutions.* This report included recommendations on how to deal with Indian residential school abuse. In addition to setting out principles to inform the compensation plan for the abuse done to individual survivors, the report called for a public inquiry into residential schools in Canada.[5] The Law Commission also recommended that all attempts to address these needs should be grounded in respect, engagement, and informed choice.[6]

In September 2000, the government decided that the importance of the issue required that a Deputy Prime Minister be given the responsibility of coordinating residential school initiatives on behalf of the Government of Canada. To this end, the residential school file was moved from Indian and Northern Affairs Canada to a new department, Indian Residential Schools Resolution Canada. This new department was created on June 4, 2001 to centralize federal resources and efforts dedicated to addressing the legacy of Indian Residential Schools.

On October 29, 2001, the Government of Canada announced an expedited settlement process for claims in which a church organization is also involved.

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[2] Indian Residential Schools Resolution Canada "Statement of Reconciliation" online IRSRC: <http://www-irsr-rqpi.gc.ca/reconciliation.html> ; Also see Minister of Indian Affairs and Northern Development, "Gathering Strength – Canada's Aboriginal Action Plan" Ottawa: 1997. http://www.ainc-inac.gc.ca/gs/chg_e.html#reconciliation See also: Resolution Framework. Ottawa: Minister of Public Works and Government Services Canada. <http://www.irsr-rqpa.gc.ca/english/dispute_resolution_resolution_framework.html>

[3] "Guiding Principles for Working Together to Build Restoration and Reconciliation" is taken from *Reconciliation and Healing: Alternative Resolution Strategies for Dealing with Residential School Claims*, pages 107-116, published under the authority of the Minister of Indian Affairs and Northern Development, Ottawa, 2000

[4] Indian Residential Schools Resolution Canada, Kaufman, Thomas and Associates, "Review of Indian Residential Schools Dispute Resolution Process", Final Report, Executive Summary, online IRSRC: <http://www-irsr-rqpi.gc.ca/english/pdf/Final_Report_Executive_Summary.pdf>

[5] Law Commission of Canada *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* online LCC: <http://www.lcc.gc.ca/en/themes/mr/ica/2000/pdf/execsum.pdf>

[6] Law Commission of Canada, ibid.

In August 2002, the Honorable Ralph Goodale, Minister of Public Works and Government Services Canada and also Federal Interlocutor for Metis and Non-Status Indians, assumed responsibility for Indian Residential Schools Resolution Canada.[7]

In 2003, the Government of Canada signed agreements with the Presbyterian Church of Canada and the Anglican Church of Canada outlining how each church will participate in sharing the cost of compensating valid claims of sexual and physical abuse.[8] As a result, survivors with claims against these churches were paid 100% of their settlement amounts by Canada whereas other survivors whose claims were against other religious entities were paid only 70% of their claims.

The DR settlement model was implemented in November 2003 and 19 claims have been settled to date. Over 700 applications have been filed and are waiting for a hearing and/or adjudication. Five hundred of these claims are under the Class A category of claims and 186 are under the Class B category of claims.[9] The government is currently appealing at least one of the Class B claims awarded in the DR process under an adjudicative decision.[10]

There are approximately 18,000 tort claims and several class action suits that have been filed to date.[11] This caseload, without an alternative method of resolution to the courts is estimated to take another 53 years to conclude at a cost of $2.3 billion in 2002 dollars, not including the value of the actual settlement costs.[12] The costs of administering settlements awarded to date are more than triple the amount of the compensation that has been paid.[13]

The Task Force of Experts

An expert group was assembled in May and June 2004. Several meetings, research projects, and discussions were conducted over the ensuing three months within the group. An extensive review of the relevant case law, historical literature, government documents, reports, and estimates was undertaken as well as a review of many legislated and non-legislated compensation schemes for damages caused by mass torts and mass human rights violations in Canada and internationally. A careful review of application forms under various compensation schemes was undertaken as well as numerous discussions held with experts in human rights, child abuse, survivor groups, litigators, church representatives, judges, academics, psychiatrists, psychologists and counsellors.

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[7] Indian Residential Schools Resolution Canada "Statistics to Sept.1, 2004" online IRSRC: <http://www.irsr-rqpi.gc.ca/english/2001-2002_DPR_IRSRC.htm>

[8] Indian Residential Schools Resolution Canada "Statistics to Sept.1, 2004" online IRSRC: <http://www.irsr-rqpi.gc.ca/english/questions.html>

[9] Indian Residential Schools Resolution Canada "Statistics to Sept.1, 2004" online: IRSRC <http://www.irsr-rqpi.gc.ca/english/statistics.asp>

[10] CanWest News Service, National Post, "Ottawa wants senior's $1500 award: Residential school case", 2004.09.14, News Section, Page A3, By-line: Richard Foot (Note: Flora Merrick, age 88)

[11] *infra*, note 32.

[12] *infra*, note 33.

[13] *Supra.*

Relevant case law was examined from Canada, Ireland, the United States and the United Kingdom. Two members of the expert group undertook a fact-finding mission to Ireland and England for a ten-day period in July. Throughout the period between March and September, the Task Force compiled its views, distilled its findings and research, and drafted recommendations with a view to producing a comprehensive report to the AFN by mid-September 2004. This Report is the culmination of their work.

The members of the expert group are:
Phil Fontaine, survivor and National Chief of the AFN;
Charlene Belleau, survivor and Co-ordinator, AFN Residential School Unit;
Kathleen Mahoney, Professor of Law, University of Calgary, Project Director
Dr. Sheilah Martin, Professor of Law, University of Calgary, lawyer, Code Hunter LLP;
Bruce Feldthusen, Dean of Law, University of Ottawa;
Dr. Greg Hagen, Professor of Law, University of Calgary;
Dr. Ken Cooper-Stephenson, Professor of Law, University of Saskatchewan;
Jennifer Llewellyn, Professor of Law, Dalhousie University;
Lorena Fontaine, Professor of Indigenous Studies, First Nations University;
Justice Earl Johnson, Nunavut Court of Justice;
Former Chief Justice Barry Stuart, Yukon Territorial Court;
Art Miki, Former President, National Association of Japanese Canadians;
Richard Devlin Professor of Law, Dalhousie University;
Bob Watts, Chief of Staff of the AFN;
Ken Young, survivor and political advisor, AFN;
Dr. Sharon Williams, Professor of Law, Osgoode Hall; former judge of the War Crimes Tribunal for the former Yugoslavia;
Dr. William Schabas, Professor of Law, University of Quebec, Director, Irish Center for Human Rights, member, Truth Commission for Sierra Leone;
Dr. Rita Aggarwala, former Professor of Mathematics, University of Calgary, and law student;
Student researchers Erika Carrasco, Alice Chen, Ben Gabriel, Megan Reid, and Kim Reinhart.

Short biographies are attached as **Appendix "A".**

Part I

Compensation for Residential School Abuses

Objective

The objective of the project is to examine Canada's dispute resolution model for Indian Residential School claims to determine what practical and reasonable changes can be made to it in order to make it more acceptable and accessible to survivors with the final goal of achieving fair and just compensation with reconciliation.

The main goal of the Task Force is to create, in a timely way, a comprehensive, credible report, which will thoroughly examine all of the relevant compensation issues and provide concrete advice and recommendations. The recommendations will specifically address the current DR model, its procedures, substantive scope, legal underpinnings, structure, relationship to the residential school context, and fairness. Recommendations will give choices to survivors, suggest a process that will allow for more timely settlements, create a substantive framework that will incorporate the residential school context and achieve a just, fair, and mutually beneficial outcome for survivors and Canada. Recommendations will be legally supportable in civil, constitutional, aboriginal, and international law and consistent with Canadian public policy.

Even though the primary focus of this report is the compensation plan, we acknowledge that it needs to be but a part of a holistic process aimed at reconciliation, healing and compensation combined. We therefore have included recommendations for a truth sharing and reconciliation process in Part II of the report.

The residential schools policy and operation involved the commission of numerous torts, violations of human rights, breaches of the *Criminal Code*, breaches of trust, and violations of treaty rights of several generations of First Nations peoples. Numerous, cumulative and complex harms were caused that have yet to be properly remedied through compensation or reparation. Canada has acknowledged responsibility in the current dispute resolution model, but only for a narrow band of personal injuries caused by physical and sexual abuse and wrongful confinement. We believe that an important opportunity still exists for the AFN to work together with Canada to make the needed reforms so that proper acknowledgement of the magnitude of the injuries to First Nations occurs and appropriate remedies are provided.

With the recommended changes to both the substance and process of the DR model and the addition of a truth sharing and reconciliation aspect, we believe that there will be a much higher degree of acceptance and satisfaction for survivors and greater certainty, less risk and a more fair, just, and defensible outcome for Canada than the current model currently provides.

Guiding Principles

As a starting point, the expert group endorsed and incorporated the Guiding Principles adopted by survivors, government officials and church groups during the year-long consultative process that took place in 1999.

At that time, the dialogues began in traditional ceremonial fashion to ensure that the process would proceed on the basis of mutual trust, respect, and honesty. It is crucial to the credibility of the DR process that these agreed-upon principles be honoured. We have summarized the detailed guiding principles into five underlying foundational commitments that now must guide the federal government's responses to residential school abuses in the settlement processes and in these negotiations. They are:

1. **To be inclusive, fair, accessible and transparent;**
2. **To offer a holistic and comprehensive response recognizing and addressing all the harms committed in and resulting from residential schools;**
3. **To respect human dignity and racial and gender equality;**
4. **To contribute towards reconciliation and healing;**
5. **To do no harm to survivors and their families.**

There are aspects of the current DR model, which reflect the guiding principles of the Dialogues that we are recommending be retained. There are other aspects that do not reflect the principles and as a result, have not been well accepted by survivors and have caused many to reject the current model. In some cases we have rejected them as well, others we have modified.

We believe our recommendations address the need for a fair, just and comprehensive approach towards reconciliation for survivors, First Nations and Canada. Fundamentally, such a comprehensive approach requires that the DR model contain a broader range of categories of compensable harms in order to be acceptable to survivors as well as an ability to heal damaged relationships. Otherwise, there is a very real danger that new harms in the relationship between First Nations, non-Aboriginal peoples, and government will be created in addition to the profound harms that have already occurred. If that is the result, reconciliation will become impossible for the indefinite future.

The Current DR Model: Its Strengths and Weaknesses

The government's DR model is a voluntary process that seeks to resolve legal claims of physical abuse, sexual abuse and wrongful confinement at Indian Residential Schools by providing compensation.[14] It creates two modes of settlement. Category "A" applies to persons with claims for physical abuse with injuries lasting more than six weeks or who required hospitalization or serious medical treatment and sexual abuse or both. They can choose to move through the process either individually or as part of a group, but each

[14] Indian Residential Schools Resolution Canada, 2004. "Statement of Reconciliation." [cited June 6, 2004]. Online IRSRC: <http://www.irsr-rqpa.gc.ca.english/dispute-resolution-commeration.html>

individual must appear at two separate hearings before a decision-maker. If the abuse took place in British Columbia, the Yukon or Ontario, the total compensation is capped at $245,000. If the abuse took place in any of the other provinces or territories, the total compensation is capped at $195,000. The cost of future care is capped at $25,000.

Category "B" applies to claims of physical abuse that did not result in injury lasting more than six weeks or that required hospitalization or serious medical treatment and to claims of wrongful confinement. The maximum amount of compensation for Category "B" physical abuse and wrongful confinement is $1,500. Where aggravating factors are present, the award may reach $3,500 maximum. This cap applies regardless of the severity of the effects of the abuse on the survivor or the frequency and duration of the physical abuse. It also ignores the effects of the residential schools on loss of language, culture, family life, parenting and secondary harms to spouses and descendants. There is no provision to recognize or compensate for emotional and spiritual abuse, neglect, forced labour or educational deficits, or their consequences.

In category "A", cases of "serious" physical and sexual abuse, compensation is calculated on a point system where points are awarded for the severity of the injuries and the severity of the consequences of the injuries. The greater the number of points, the greater the amount of compensation awarded.

Under the current DR model, the adjudicator can award up to 60 compensation points for acts of sexual abuse and 25 points for acts of physical abuse. There are up to 25 compensation points available for consequences of the sexual or physical abuse and up to 15 points available for loss of opportunity. The compensation can be increased up to 15% of the points if aggravating circumstances are present. Future care costs are compensated in the form of awards for future counselling if the damage is severe, capped at $25,000.

The points are translated into dollar figures under a range of financial awards that depend first upon the total compensation points; second upon the location of where the abuse occurred; and third, whether the abuse was committed by a person whose religious group has entered into an indemnity or cost-sharing agreement with Canada.

This point-based framework and financial grid is problematic in several respects, but three of the most egregious problems with it are:

1. It treats survivors unequally;
2. It assigns too many points to the injuries and not enough points to the consequences of the injuries;
3. It is too rigid and narrow in its categories and descriptions of abuses and harms.

The inequality arises because of the two different levels of compensation depending on the location where the abuse took place – one grid for survivors whose abuse took place in British Columbia, the Yukon or Ontario, and a lower grid for those whose injuries occurred in the rest of Canada.

A further inequality occurs because the model treats survivors differently based on unequal application of the vicarious liability principle. If a member of a religious organisation that has not entered into an indemnity abused a survivor or contribution agreement with Canada, then the survivor is only awarded 70% of the compensation he or she is entitled to under the model. If a survivor was injured by a member of a religious entity that has entered into an indemnity agreement with Canada, he or she is awarded 100% of their compensation.

The current weighting of compensation points is problematic because it gives a marked priority to the act of abuse suffered and less overall points to the consequences of abuse suffered and the loss of opportunity. This is especially problematic because the definition of physical acts of abuse is unduly restrictive and excludes the abuse experienced by many survivors.

Overall, the current DR plan provides a compensation package that is based on tort law principles, narrowly interpreted. The standard adopted for the amount of compensation awarded for abuses is at the low end of the spectrum of damages awarded in Canadian courts for ordinary sexual and physical abuse. The First Nations perspective is largely absent from the descriptive framework of the injuries and consequences, financial grid or scope of coverage. As a result, the contextual elements are missing and in some cases, race and gender inequities occur.

On the positive side, the concept of providing an out-of-court settlement process is a very good one. Claimants who recover compensation under the current process, for the most part, are compensated faster and with less stress and expense than through litigation. The DR process also benefits survivors in that it reduces the risk that deserving claimants will receive little or nothing in the lottery of civil litigation. The model further benefits survivors because it incorporates a more flexible process and standard of proof that is less stressful and less harsh than the normal discovery process. The current model attempts to validate claims for sexual and physical abuse in a non-adversarial, sensitive way. The current DR process also provides access to commemoration. Commemorative activities pay tribute to Indian Residential School survivors and acknowledge the experience of survivors and the larger impacts of the residential school system. These aspects are very important and should be retained and encouraged.

Notwithstanding the positive elements of the DR model, it has not been well received in First Nation communities across the country or by a large number of residential school survivors. In addition to the criticisms cited above, survivors have forcefully indicated that the current model under-values or ignores their personal injuries and does not take into account the context of residential schools. They say in order to be just, fair, and reasonable, the compensation plan must consider and account for their personal losses more accurately and comprehensively as well as compensate for group-based systemic abuse and the consequences that flowed from that abuse.

More specifically, the most common criticisms expressed by survivors of the current DR model in addition to those identified above, are as follows:

- The current model does not address emotional abuse, neglect, forced labour, loss of family life and parental guidance and their consequences.
- The present measure of compensation does not consider the injuries and consequences associated with racism, forced assimilation, and destruction of culture.
- The provisions for compensating survivors from abuse by other students are too limited.
- Survivors, regardless of health or age status, cannot access interim awards.
- The application form is complicated, confusing, and intimidating.
- The process takes too long.
- The model does not take into account the healing needs of survivors, their families, and their communities.
- The model does not take gender differences into account, neither for the gender-specific injuries inflicted nor for the gender-specific consequences of the injuries.
- The model errs in its evaluation of abuse by referring to the standards of the time it was administered.
- The model does not address the need for truth sharing, public education, or awareness of the Canadian public about residential schools.

We are of the opinion that many, if not all of the criticisms can be resolved. Our recommendations build on the time, resources, and expertise already invested by Canada by working from the positive elements in the current model and extending them to cover the unique harms caused by the residential school experience in a more contextual, sensitive manner, and by including a healing component.

Our recommendations will increase the amount of compensation available for survivors, while significantly decreasing administration, procedural and litigation costs for both Church entities and Canada. In addition, our recommendations, if implemented, will benefit Canada and all Canadians because they will help lead to reconciliation and the healing of broken relationships that have undermined the health of the nation over generations. A cost/benefit analysis that puts a value on reconciliation and the positive health and social consequences that would follow a reconciliatory result, far outweigh the costs required to achieve them. The costs of not achieving reconciliation are immense. [15]

Assessing Damages: The Goals of Compensation

Compensation is a general term that can have different goals, purposes and levels. What compensation means depends on whether the context is litigation in a court, negotiations designed primarily to settle an outstanding case, monies paid pursuant to a social welfare

[15] A. Bowlus *et al.*, The Economic Costs and Consequences of Child Abuse in Canada (March 2003), online: Law Commission of Canada, < http://www.lcc.gc.ca/en/themes/mr/ica/mckenna/mckenna.pdf >

scheme or awards agreed to in a dispute resolution process intended to redress acknowledged wrongs and facilitate healing and reconciliation. With that understanding, we are not seeking full tort law damages in an alternative dispute process. However, our recommendations do support fair and just redress for the full range of injuries suffered and we encourage the federal government to restore the dignity of survivors by responding with generosity, compassion and speed.[16] The amount of compensation should recognize that people were harmed, provide solace for their injuries, assist in repairing the emotional, physical and psychological damage caused by residential schools, and provide funds for the reconstruction of survivor's lives.

Our recommendations are as follows:

Recommendations

1.0 To ensure that the full range of harms are redressed, we recommend that a lump sum award be granted to any person who attended an Indian Residential School, irrespective of whether they suffered separate harms generated by acts of sexual, physical or severe emotional abuse.

The Indian Residential School Policy was based on racial identity. It forced students to attend designated schools and removed them from their families and communities. The Policy has been criticized extensively.[17] The consequences of this policy were devastating to individuals and communities alike, and they have been well documented[18]. The distinctive and unique forms of harm that were a direct consequence of this government policy include reduced self-esteem, isolation from family, loss of language, loss of culture, spiritual harm, loss of a reasonable quality of education, and loss of kinship, community and traditional ways. These symptoms are now commonly understood to be "Residential School Syndrome." Everyone who attended residential schools can be assumed to have suffered such direct harms and is entitled to a lump sum payment based upon the following:

1.1 A global award of sufficient significance to each person who attended Indian Residential Schools such that it will provide solace for the above losses and

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[16] The comments of Mr. Tom Boland, Deputy Minister formerly in charge of the Irish Compensation Plan for Industrial School Survivors in Ireland are indicative of the Irish perception of the Canadian model not being generous when he stated the Canadian compensation for Indian Residential Schools was "*de minimus* and grudgingly given." See *infra*, note 34.

[17] Miller, J.R. 1996. Shingwauk's Vision: A History of Native Residential Schools. Toronto: University of Toronto Press., Miller, J.R. 2003. Troubled Legacy: A History of Native Residential Schools. Sask. L. Rev. 66: 357-382., Quewezance, Basil and Joe Nolan. 2004. Indian Residential Schools: A Background Report. Unpublished: Assembly of First Nations; Bowlus, *Supra;* Jason Wuttunee, *Issues in the Settlement of Residential School Claims*; Jennifer Koshan, *"Does the DR Model Violate the Charter?*; and Greg Hagen, *The DR Model: Fair Treatment or Re-Victimization?*, In The Residential School Legacy: Is Reconciliation Possible?, Kathleen Mahoney, ed. (unpublished.)

[18] Rosalyn Ing, *Dealing with Shame and Unresolved Trauma: Residential School and Its Impact On The 2nd and 3rd Generation Adults* (PhD Thesis, Department of Educational Studies, University of British Columbia, 2000) [unpublished].

would signify and compensate for the seriousness of the injuries inflicted and the life-long harms caused.

1.2 An additional amount per each additional year or part of a year of attendance at an Indian Residential School to recognize the duration and accumulation of harms, including the denial of affection, loss of family life and parental guidance, neglect, depersonalization, denial of a proper education, forced labour, inferior nutrition and health care, and growing up in a climate of fear, apprehension, and ascribed inferiority.[19]

As attendance at residential school is the basis for recovery, a simple administrative process of verification is all that is required to make the payments as the government is in possession of the relevant documentation.

2.0 To ensure that all survivors are fairly and justly compensated for the harms caused by attendance at residential schools, we recommend that in addition to the compensation for injuries covered by the lump sum claim, affected survivors have the choice to claim compensation for acts of additional physical, sexual and severe emotional abuse and personal injuries flowing from them.

2.1 The definition of abuse in the current DR model is too limited to cover the abuses suffered by residential school students. The definition for abuse should be the same as that in the Irish compensation model that is as follows: "abuse" of a child means-

(a) The wilful, reckless or negligent infliction of physical injury on, or failure to prevent such injury to, the child;
(b) The use of the child by a person for sexual arousal or sexual gratification of that person or another person;
(c) Failure to care for the child which results in serious impairment of the physical or mental health of the child or serious adverse effects on his or her behaviour or welfare, or
(d) Any other act or omission towards the child which results in serious impairment of the physical or mental health or development of the child or serious adverse effects on his or her behaviour or welfare.

2.2 The definition of "injury" must be made explicit to include physical or psychological injury and injury that has occurred in the past or currently exists. Compensation should be payable in respect of any injury which is consistent with any abuse suffered by the survivors while he or she was in an institution.

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[19] The expert group is concerned that the acceptance of the concept of the lump sum and its method of calculation based on a functional approach be a priority and that the amount of the lump sum be the subject of future negotiation. However, the sum the group sees as being reasonable and fair that should serve as a reference point is $10,000 for every student who attended an Indian Residential School plus an additional $3,000 for every year attended.

2.3 The form of compensation must include the long-term psychological damage to survivors who might not be able to prove physical or sexual abuse, but still suffered severe emotional harm through various forms of emotional and psychological abuse. This can be emotional damage that is more complete and severe, a lasting effect from actual harm and not just a consequence.

3.0 To ensure that acts of abuse and their consequences more accurately compensate the survivors, we recommend that the severity of consequence resulting from the abuse be measured similar to the approach adopted by the Irish government under which the severity of the acts of abuse constitute up to 25 points of the evaluation, while the severity of the consequences of the abuse is weighted at up to 75 points.

3.1 In assessing consequences, 1-25 points should be given towards the severity of the abuse; 1-30 points should be assigned to physical and mental injuries, 1-30 points to psycho-social harms and 1-15 points for loss of opportunity.

3.2 These four separate weightings produce an overall assessment of the severity of the abuse and the injurious consequences suffered by the survivor. When they are added together, the total assessment is then put on a scale of dollar amounts.

3.3 Adjudicators should have the discretion to award compensation over and above the scale where the acts of abuse and the injuries arising from the abuse are exceptional.

4.0 To ensure that all the acts of abuse and their injurious consequences are taken into consideration and given the proper weight, we recommend that descriptions of the acts of physical, sexual and severe emotional abuse and their consequences be made more flexible and context-sensitive, including to the context of race and gender.

4.1 The compensation plan must have sufficient flexibility to make it capable of addressing individual claims but at the same time, certain enough to provide assistance to the adjudicators in determining awards, help applicants present their cases and enable reasonable predictions as to the likely outcome of applications. We therefore recommend that the plan continue to have a mathematical component which calculates compensation by reference to a weighting system whereby a particular case can be located on a point based scale and then the amount can be fixed.

4.2 While the current approach captures the likely range of abusive conduct and provides guidance through its narrative, (except see the comments on gender-specific injuries and harms below) the descriptions are too restrictive and the levels are too rigid. For example, the current DR model defines physical abuse and forced confinement in unduly narrow ways. Survivors should not have their

experience denied or demeaned by overly rigid de-contextualized descriptions in a hierarchy of abuse.

4.3 The severity of the acts of physical, sexual or emotional abuse and injurious consequences should take into account not just the severity of the act itself, but also the period of time over which the abuse and the abusive atmosphere lasted, as well as the number of times it occurred. For example, one incident of sexual intercourse should not be given more weight than numerous instances of fondling over a period of several years.

4.4 Women and men must be considered separately in the descriptions of acts of abuse and consequences of the abuses in the point-based system of calculation. For example, consequences experienced as a result of sexual or physical abuse on girls can be different than those suffered by male victims of abuse. Unless there is sensitivity to these differences, some behaviour that abused and injured female children may not be recognized as such.

4.5 In addition, the social, psychological and physical consequences of physical or sexual abuses may be different for women than for men. For example, physical abuse may subject a female residential school survivor's vulnerability to greater racism and sexism, subsequent physical and sexual abuse by others, divorce, and lost economic opportunities than men in some cases. Infertility, fear or avoidance of sexual activity, chronic abdominal pain, exposure to miscarriages and abortions, unwanted pregnancies and other forms of gender-specific harms are omitted in the present model. Other physical consequences of sexual abuse such as difficulty in child bearing or conception fall through the cracks unless a gender-specific approach is taken to survivors' claims.

4.6 There is no reason why sexual abuse, as a category, should carry a maximum of 60 points, while the most extreme form of physical abuse has a maximum of 25 points. Adjudicators should have more flexibility to address severe physical and sexual abuses through awarding more points for one or the other, or cumulatively together, as circumstances require. For example, a student may have suffered a physical beating in residential school that resulted in a miscarriage; or a rape, which resulted in a pregnancy; or a pregnancy that resulted in a forced abortion. These entire circumstances raise questions about the adequacy of the maximum level of points as well the rigid distinction between physical and sexual abuses. We would be pleased to work with Canada to refine the assessment measures for severity of abuses and severity of injurious consequences.

4.7 In order to specify the acts of abuse and the harmful consequences in detail, women survivors must be more extensively consulted in the design of the DR model as well as medical, psychiatric and psychological experts specializing in gender-based harms.

5.0 To achieve a non-discriminatory compensation model for the cumulative harms of residential schools, we recommend that physical and psychological punishment and serious emotional abuse must be judged by the standards of today, not the standards when the abuse occurred.

5.1 To require that physical and emotional punishment be judged by the standards at the time the abuse occurred considers only the perspective of non-Aboriginal people and what they thought was reasonable at the time, incorporating a race bias into the calculation of compensation. The reasoning that supports use of the accepted standard of the time defeats the whole purpose of reconciliation for it could be similarly argued that it was also considered reasonable at the time to assimilate First Nations children by means of residential schools.

5.2 To adopt the standard at the time the abuse occurred attempts to avoid liability and fault on a narrow, de-contextualized and abstract basis. Physical and psychological punishment should be evaluated in the broader, residential school context. For example, children were physically punished for speaking their language, this context would not have existed in non-Indian schools, nor would the general context of racial degradation and humiliation for the purpose of assimilation. These elements alone would put the punishments suffered by Indian Residential School students outside standards of the time.

5.3 If the evidence discloses consequential harms which are real and recognizable by today's medical standards, it should be irrelevant that some of the punishment meted out to survivors may have been acceptable at the time, especially if the survivors are still experiencing the consequential harms accumulated over time. This is particularly important in the context of a compensation model focused on compensating for harms caused rather than a compensation model based on fault.

5.4 In a compensation model with reconciliation as its goal, ignoring the accumulation of the harms over time and the sensibilities held by survivors and their families in favour of an undefined "standards of the time" limitation undermines the whole purpose of the DR project.

6.0 To achieve a more accurate and fair assessment of the consequences of the physical, sexual and severe emotional abuses experienced by survivors, we recommend that medical or therapeutic professionals sit as one of two adjudicators on each claim.

6.1 The nature of the harms of residential school abuse is physical, emotional and psychological – also know as the Residential School Syndrome. In a settlement resolution process where expert witnesses will not necessarily be called to explain medical reports and the symptoms and severity of the harms,[20] it is essential that at least one of the adjudicators have the education and experience to

[20] See recommendation 22.3 *infra.*

evaluate, understand, and explain the medical nature of the claims, the physical, social and psychological consequences and the future care needs of the survivors.

7.0 We recommend that compensation awards include an amount for the cost of reasonable medical treatment (including psychiatric treatment) for past injuries and/or the cost of reasonable medical treatment for future care. The award for medical expenses should take the form of an additional award.

7.1 It is of paramount concern to the law that plaintiffs who have suffered damages receive proper future care.[21] This recommendation should be linked to ongoing activities of the Healing Foundation. The principle of compensation for past and future care should apply equally to residential school survivors.

8.0 We recommend that to achieve equality and consistency in the compensation awards, the DR model have a national compensation standard that is uniform across jurisdictions.

8.1 The compensation amounts should not be differentiated according to the province in which the student attended residential school. The rationale offered for this variable standard is that different provinces award different amounts in court cases for sexual or physical abuse. This imposed geographic disparity is intuitively unfair, arbitrary and punitive.

8.2 The lack of uniformity violates tort principles articulated by the Supreme Court of Canada in the *Andrews v. Grand and Toy*,[22] which states, "variation should be made for what a particular individual has lost in the way of amenities and enjoyment of life, and for what will function to make up for his loss, but variations should not be made merely for the province in which he happens to live."

8.3 A national standard should be based on the current dollar figures awarded in British Columbia, Ontario and the Yukon as those jurisdictions have decided the most cases to date and the weight of the jurisprudence is from these areas.

9.0 We recommend that to avoid race discrimination, the appearance of race discrimination or the perpetuation of race discrimination, Canada ensure that global awards under the DR process are comparable to awards being won in similar cases outside the residential school context and that the use of racial stereotypes is avoided.

9.1 While we agree that compensation should be personalized it is important to compare awards for sexual abuse being awarded by the courts in other cases outside the residential school context to avoid discrimination or any appearance

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[21] *Andrews v. Grand and Toy* [1978] 2 S.C.R. 229; 83 D.L.R. (3rd) 452 at 477 (SCC).
[22] *Supra*, note 3.

of discrimination, especially if the latter are higher. In *J.R.S. v. Glendinning*,[23] for example, three non-Aboriginal plaintiffs who were sexually abused by a priest outside of a residential school setting were awarded $400,000 each. This is far greater than the existing cap under the DR program of either $195,000 or $245,000.

9.2 It has been noted that there are three arguments that are generally made for reducing awards made for Aboriginal Canadians compared to non-Aboriginals.[24] They areas follows:

1. Aboriginal plaintiffs suffer less injury because their health or material prospects are, in any event, diminished by reason of physical or socio-economic factors related to their race;

2. Individual prospects are typically measured against the culturally dominant standard of the market from which Aboriginal individuals are largely excluded;

3. Statistical indicators are used to prove that life prospects were not favourable (when measured against the market yardstick) and therefore, their economic loss due to the abuse was not great.

To justify or attempt to justify lower awards based on any of these grounds would merely perpetuate discrimination embedded within statistical tables and inequities in treatment based upon race and defeat the reconciliatory purpose of the DR program.[25]

10.0 In the interests of fair compensation, healing, reconciliation, and accepting full responsibility for past wrongs, we recommend that Canada expressly acknowledge its responsibility and accept fault for both the physical and sexual abuses of First Nations students and Canada's assimilation policy which created the context for the abuse to occur.

10.1 When Canada fails to acknowledge its responsibility for creating the harmful context within which the direct injuries of physical and sexual abuse occurred, (as it does in the current DR model) it minimizes its role in creating the harm to students. Canada should not argue (as it did in the *Blackwater* case) that the ill effects suffered from physical and sexual abuse – such as the inability to hold a job or function well within a family context – would have happened

[23] *J.R.S. v. Glendinning*, [2002]).J. No. 285.
[24] See Cassels, "(In)equality and the law of Tort" at 190—191, cited in B.C. Law Institute, 2001. *Report on Civil Remedies for Sexual Assault*, online BCLI:
<http://www.bcli.org/pages/projects/sexual/CivilRemReport.html>
[25] See discussion following Recommendation 10 below.

anyway because the residential school setting was highly harmful.[26] Given the racist nature of the Indian Residential School experiment, it is inappropriate to apply the "crumbling skull" doctrine to limit compensation under the DR process. Moreover, the adjudicators at this stage cannot determine whether there was a measurable risk that a pre-existing condition would result in harm to survivors in any event.[27]

10.2 The Supreme Court of Canada decision in *Athey v. Leonati*[28] is the appropriate approach. In that decision, the Court held that "[o]nce it is proven that the defendant's negligence was a cause of the injury, there is no reduction of the award to reflect the existence of non-tortious background causes."[29]

10.3 The British Columbia Law Institute clearly cautions against improper applications of the "crumbling skull" doctrine where intentional torts are committed when it cites *Athey* for the proposition that: "an intentional tortfeasor who takes advantage of a pre-existing condition for his own personal gain should not then be permitted to argue that the existence of this condition relieves him of full responsibility for paying damages."[30]

10.4 The Institute further points out that the "thin skull doctrine" is the more appropriate doctrine, saying not only does the defendant take the victim as he finds him or her, but where the plaintiff's prior condition was already vulnerable, he actually exploits the plaintiff's pre-existing condition of vulnerability.[31]

11.0 We recommend that to achieve greater accuracy in awarding compensation, the 15% available add-on for aggravated damages in the present DR model be significantly increased.

11.1 We support the general approach to aggravated damages in the current DR model, but believe the maximum percentage should be 25 to 30%, rather than 15%.

11.2 Under the current DR model an individual receives compensation only for the most serious act of abuse even though other lesser-valued forms of abuse may have occurred. When this approach is taken, the aggravated damages mechanism is the only way to account and compensate for different types, levels, frequency and egregiousness of other sexual or physical abuses. A

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[26] This was the underlying argument of the Crown in *Blackwater v. Plint*, 2003 BCCA 671, where the Crown argued that the trial judge did not consider whether there were any contributing causes which would have led to the plaintiff's harms in any event.
[27] *Supra.*
[28] *Athey v. Leonati*, [1996] 3 S.C.R. 458 at s.5; reiterated in *K.L.B. v. British Columbia* 2003 SCC 51.
[29] Ibid. s.IV B5
[30] Ibid
[31] B.C. Law Institute. *Report on Civil Remedies for Sexual Assault.* Online BCLI: <http://www.bcli.org/pages/projects/sexual/CivilRemReport.html>

higher ceiling for aggravated damages gives the adjudicator more flexibility to assess all the acts of abuse and consequential harms as well as account for more injurious or egregious methods of inflicting the harm.

11.3 An exception to this approach would be humiliation. The very nature of sexual harms is its humiliation of the victim. Therefore, humiliation is to be assumed and be considered a part of the seriousness of every sexual abuse and injury. It should not need to be proven as an aggravating factor.

12.0 We recommend that for greater clarity, the presumption of fault and causation be made express to both adjudicators and survivors.

12.1 Once the claimant proves acts of sexual or physical abuse and their injurious consequences, he or she should receive compensation. Fault and legal causation should be non-rebuttable presumptions and stated to be so in the mandate of the adjudicators as well as in the application form for survivors.

13.0 To achieve fairness and equality in the treatment of survivors and to be consistent with well-understood legal principles, we recommend that Canada assume 100% liability for all harms that occurred to survivors.

13.1 Our recommendation is consistent with the modern tort law perspective that recognizes that more than one party may be at fault in the commission of torts and, in such cases, that liability should be apportioned among the faulty parties.[32] Thus, where two parties caused or contributed to the abuse of a residential school student, both will be found at fault and liability will be apportioned in accordance with their degree of fault. Generally speaking, if there are two faulty parties, they will be found jointly and severally liable for the entire amount of any damages.[33] Thus an injured party can sue either faulty party for 100% of the losses suffered. Failure to reach an agreement with some churches is not a justifiable reason for Canada to forego or delay paying full compensation to survivors and recovering contributions from other liable parties as and when they can. There are many good reasons why the religious entities ought to assume their own responsibility and one can sympathize with Canada's desire to ensure they do so. However, the goal of sharing liability ought not to be pursued to the disadvantage of survivors.

13.2 Under the current model, some survivors are receiving 100% of their compensation because their abusers were members of a church that has negotiated an indemnity or contribution agreement with the federal government regarding joint and several liability. In British Columbia, survivors are receiving 100% of their damages because of the decision in the *Blackwater*[34] case that held that in the residential school context, the federal

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[32] For example, the *Contributory Negligence Act* (Alberta) Chapter C-27, s. 1(1).
[33] Ibid., s. 2(2).
[34] *Blackwater v. Plint*, 2003 BCCA 671.

government was 100% liable for the acts of its employees and the church was not liable at all. Other survivors are receiving only 70% of their awards because someone whose church or religious entity has not entered into such an agreement abused them or they live in provinces other than British Columbia. This unfair and inequitable treatment causes dissention, frustration and anger amongst the survivors and violates fundamental principles of fairness and equality and arguably violates the *Canadian Charter of Rights and Freedoms.*[35]

14.0 To achieve greater fairness and accountability in the compensation process for the harms suffered, we recommend that Canada accept 100% vicarious liability for the physical, sexual or severe emotional abuse of a residential school survivor by a third party permitted on the school premises for any reason.

14.1 The current DR process allows the government to escape liability for sexual assault perpetrated by an adult who was permitted on the premises for some purpose other than "contact with children." This distinction between being on the premises for the purposes of contact with children and being there for another purpose is an artificial one that should not be made. In the context of residential schools where hundreds of children resided on a permanent basis, it is foreseeable that a visitor would have had contact with children regardless of his or her precise purpose for being there.

14.2 A DR process predicated on a desire to achieve reconciliation and closure ought not to import this limitation into the agreement, as it is a fault-based rationale to escape liability in what is purported to be a no-fault process.

15.0 In the interests of taking responsibility and effecting reconciliation and closure, we recommend that the government assume 100% responsibility for any student-on-student sexual or physical assaults, on or off the school premises, whether or not there was actual knowledge of the assaults by the school authorities.

15.1 Canada allowed the creation of violent and sexualized environments at Indian Residential Schools. By doing so, it materially and foreseeably increased the risk of abuse of the students in its care and it ought to take responsibility for doing so whether or not it possessed actual knowledge of the abuses.

15.2 Actual knowledge of school staff of particular patterns of sexual abuse will be impossible to prove in most cases. Moreover, requiring such proof is inconsistent with accepted legal standards.

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[35] See: Jason Wuttunee, *Issues in the Settlement of Residential School Claims*; Jennifer Koshan, *"Does the DR Model Violate the Charter?*; and Greg Hagen, *The DR Model: Fair Treatment or Re-Victimization?*, In The Residential School Legacy: Is Reconciliation Possible?, Kathleen Mahoney, ed. (unpublished.)

15.3 The requirement that in order to be compensable, the abuse must have occurred on school premises should be removed. Wherever the abuse occurred, the likelihood of its occurrence would have been foreseeable to school authorities, given the level of sexual and physical abuse, off and on school premises by figures in positions of authority.

16.0 In the interests of demonstrating good will and compassion for survivors' needs, interim awards and an expedited procedure should be made available to survivors, especially for the elderly and the sick.

16.1 If an interim award is sought, it should be awarded if a *prima facie* case is presented which would indicate that the survivor would get at least the amount of the lump sum award. Applications by the sick and elderly should be given priority and considered within a defined time period once the application for an expedited process is received.

16.2 Given the shorter life expectancy rates for First Nations residential school survivors, the age for interim awards for the elderly should be 60 years and above.

17.0 We recommend that the awards not be taxable or deductible from any other source of funding or support the survivors may be receiving.

17.1 Given the nature of these monies they should not attract tax and they should in no way be taken into account or in any way prejudicially affect benefits, including social benefits or insurance that survivors may be entitled to receive.

18.0 We recommend that the Application Form and Guide be simplified and access to it improved.

18.1 The current application form for the DR process is causing distress among survivors. They report that it is confusing, intimidating and very difficult, especially for older survivors, to understand. They also feel it is impersonal and reduces their experiences at residential school to a bureaucratic exercise. Many do not know how to obtain forms or how to fill them out if they do obtain them.

18.2 There should be two forms, one for living survivors and one for a deceased survivor's spouse and children.

18.3 There should be two guides with the application forms – a shorter, more sensitive guide specifically for survivors and a more detailed guide geared for claimant's representatives or lawyers or those would wish to have such information. The forms will reference the appropriate sections of the guides for ease in locating explanations.

18.4 Appropriate local community members, such as court workers, social workers or counsellors should be employed to assist and support survivors to fill out the application forms. These local community members know their communities and understand the context of their survivors. As such, they are in a better position than outsiders to develop comfort and trust. These community members should also be available as long-term support resources for claimants. The utilization of local community workers provides the added benefit of being a practical and relatively inexpensive method of building up capacity within the community and enhancing community resources.

18.5 A 1-800 helpline for survivors should be connected to independent First Nations organizations such as the AFN rather than an office connected to government. This will engender greater trust in the process. Having an independent First Nations person at the other end of a helpline will alleviate discomfort of talking with a government employee or someone perceived to be a government employee. The helpline should be equipped to answer basic questions and be able to direct survivors to professional services such as psychiatrists, psychologists, counsellors or lawyers who can assist them with advancing their claims.

18.6 Survivors should have access to the assistance of a counsellor paid for by Canada to support them in the preparation of their statements, during their hearings and after their hearings for as long as counselling is needed.

19.0 We recommend that Canada be more proactive in ensuring that all residential school survivors have access to the DR process.

19.1 Canada should send application forms and explanatory guides to all living residential school survivors without the necessity of a request. Canada is in the best position to initiate the process as it has all the records and contact information. By Canada taking a proactive approach, a significant burden is removed from survivors, many of whom are elderly and sick and live in remote, rural locations. Such an approach is also consistent with affirming Canada's stated desire to compensate injured survivors, to reconcile and seek forgiveness, to help- re-establish trust, and to fulfill its fiduciary obligation to act in the survivor's best interests.

19.2 Canada should provide all relevant documents, including medical reports that it has a right to possess or are under its control or in its possession.

19.3 Canada should facilitate the acquisition of documents within provincial government control.

19.4 Canada should pay for all expert reports or advice required to prove a claim, including medical reports.

19.5 Upon request of the claimant, the Adjudicators should be given the power to order production of documents from other sources, such as religious entities, to complete the claimant's application.

20.0 In the interest of addressing survivors' claims more quickly and efficiently, we recommend lump sum applications be paid out administratively without requiring hearings or personal statements where records indicate attendance at an Indian Residential School.

20.1 To access the lump sum, the application form should ask for proof of the survivor's identity, address, the name of the residential school attended and the number of years attended. If the survivor is claiming damages in addition to the lump sum, then additional information will need to be provided as discussed below.

20.2 When Canada's representatives receive the form, they should provide all the necessary documents from their files to verify attendance so the survivors will be relieved of this sometimes onerous and time-consuming task.

20.3 Adjudicators should not be required for the assessment of lump sum applications unless there is some complication with respect to the documentary evidence. Otherwise, the assessment of the claim and the payment of compensation should be a purely administrative function.

20.4 In the case of intestate deceased survivors, the lump sum award should be awarded to surviving family members or community programs in the name of the deceased if there are no surviving family members. Proof requirements are the same as if the survivor was living.

21.0 In claims for physical, sexual and serious emotional abuse, we recommend that the application form allow for more flexibility in the method of acquiring the statements and supporting evidence.

21.1 To obtain compensation for sexual, physical and serious emotional abuse, survivors should provide detailed descriptions of the acts of abuse and the consequences of the abuse.

21.2 Survivors should have the option of writing their story on the space provided on the form, providing written statement in their own words attached to the form, or providing a video or audio-recorded statement in the manner they deem appropriate.

21.3 The statements should be supported by medical and other documentary evidence but it should not be fatal to the claims if there is no past medical evidence. This is important because many survivors have never told anyone, including counsellors or doctors about the details of their abuse.

22.0 In the interests of resolving survivors' claims more quickly and efficiently, we recommend that in claims for physical, sexual or serious emotional abuse, all efforts be made to simplify the process and settle the claims without a hearing, in the following manner:

22.1 To access compensation for serious physical, sexual, or serious emotional abuse the claimant will apply using the same form that is required for a lump sum claim. The difference between the two types of claims will be the additional information required of the claimant for sexual, physical or serious emotional abuse and any documentary evidence available verifying the acts of abuse and their consequences.

22.2 The pre-hearings should be conducted on the basis of the application form, proof of identity, school(s) attended, length of stay in the school, and medical evidence. At the pre-hearing, the adjudicators, (one medical and one other) Canada's representative and counsel for the survivor will negotiate the claim. The survivor may attend the pre-hearing but would not be required to do so.

22.3 Either no offer or a without prejudice settlement offer will be made to the survivor immediately following the meeting through his or her legal counsel, with reasons. If the offer is refused or no offer is made, the survivor will then have two mutually exclusive options:

1. The option of filing a statement of claim and going to court. If this option is chosen, the action would proceed in the normal course through the courts.

2. The option of having a hearing before adjudicators to tell his or her story under oath or affirmation. Medical experts could be called to testify. A decision on an offer will be made within ten days of the hearing. If the offer is refused again or no offer is made, there will be opportunity to appeal to another, sole adjudicator. The decision of the second adjudicator will be final. No appeal to the courts would be available.

23.0 In the interests of consistency, fairness and equity, we recommend that Canada clarify and facilitate the access to the DR process by heirs of deceased survivors.

23.1 Canada should proactively send application forms and guides to spouses and children of deceased survivors to put them on notice that they are eligible to apply for compensation as well as to facilitate the process for the same reasons as are stated above.

23.2 If the spouse or child of a deceased survivor wishes to make a claim for physical, sexual or severe emotional abuse, the claim should be supported by the same documentary evidence as if the survivor was living.

23.3 Although it is preferable, it should not be necessary that the deceased had provided a sworn statement as to acts of abuse and their consequences. Videotaped evidence or an unsworn statement should be acceptable.

23.4 The settlement award will be received by the executors of deceased's estate and divided in the context of any existing will. If a survivor or spouse or child is elderly or sick and making a claim the process must be expedited and abbreviated.

23.5 Resources must be provided to the community and the claimant to facilitate the expedited process.

24.0 We recommend that the Release be re-named to "An Agreement Towards Reconciliation."

24.1 The present Release is one-sided in favour of Canada. It connotes that once the settlement monies are paid, Canada's responsibilities are complete and reconciliation is achieved. We believe that the name, "Agreement Towards Reconciliation" is a more accurate reflection of the reality that reconciliation will be an ongoing process.

25.0 In the interests of reconciliation and in recognition of the ongoing harms of residential schools to survivors and their families, we recommend that the Agreement Towards Reconciliation include a commitment by Canada to recognize and deal with the ongoing needs of survivors and their communities arising from the harms caused by residential schools.

25.1 We believe the release would lead to greater satisfaction and reconciliation on the part of the survivors if, in return for accepting the settlement offer, the "Agreement Towards Reconciliation" included a commitment by the government, in addition to paying the settlement amount, to:

1. Commit to providing adequate therapeutic resources for individuals and communities in recognition of the ongoing therapeutic needs through the activities of the Aboriginal Healing Foundation as well as through other means; and

2. Pay the difference between the lump sum payment awarded and any future award the courts may give for the loss of language and culture.

25.2 The Agreement Towards Reconciliation would still have the standard provisions with respect to promise to pay in return for a promise not to sue whether as a new cause of action or a new category of damages.

25.3 The provisions in the current model with regard to government supported legal advice for survivors on the implications of signing the release are appropriate and should be retained.

26.0 In the interests certainty and efficiency and in light of the aging population of residential school survivors, we recommend that a date be set for the completion of the settlement process.

26.1 The compensation process should have a well-publicised deadline.

26.2 We suggest December 31, 2010 as the wind-up date for the settlement process. The deadline for the receipt of applications would be June 30, 2010.

26.3 These suggested dates are based on the assumption that the government acts on these suggestions prior to the end of 2004 in good faith with the necessary speed required to meet the deadline in a way that would do no harm to survivors.

26.4 Any completion date would be firm enough to allow for certainty, but have sufficient flexibility to allow for late applications in exceptional circumstances.

27.0 In the interests of fairness and for the appearance of fairness in the adjudicative process we recommend that the qualifications for adjudicators be re-visited to place greater emphasis on ADR skills, medical/therapeutic experience and education, Aboriginality, gender, and knowledge and familiarity with equality jurisprudence, child abuse, native studies and human rights standards.

27.1 To qualify as an adjudicator, it should be mandatory for applicants to have Alternative Dispute Resolution training. Given that there are many different training programs of varying quality, criteria would need to be developed in consultation with experts in this field to assess the qualifications of applicants.

27.2 Half of the adjudicators should be required to have a medical or therapeutic background with specialized knowledge in the fields of psychology or psychiatry with particular knowledge and understanding of child abuse. The other half of the adjudicators should be drawn from a pool of men and women with ADR training, who preferably have had some adjudication experience within the past five years and/or legal or legally-relevant education, especially in the fields of equality, human rights, and native studies. These qualifications should be relevant but not considered essential.

27.3 The unique contributions that Aboriginal adjudicators can bring to the ADR process should be acknowledged, and Aboriginal adjudicators should be aggressively recruited whether in the medical category or otherwise.[36]

27.4 Proactive measures should be taken to bring adjudication positions to the attention of women with expertise in equality, gender and race issues.

27.5 The process that currently allows claimants to choose between male or female adjudicators is appropriate and should be retained, but in addition, survivors should have the option of choosing Aboriginal adjudicators. This makes it all the more important to ensure that there are sufficient numbers of female and Aboriginal adjudicators in order to provide a meaningful choice.

27.6 If a claimant does not want an adjudicator provided by Canada, he or she should be able to name adjudicators of their own choosing. If Canada objects to the survivor's choice, a three-member panel of adjudicators, including at least one Aboriginal adjudicator, would review the named adjudicator. A veto by two of the three panel members would disqualify the proposed adjudicator. This change to the current recruitment process would provide a list of approved adjudicators in addition to the pool, as well as save costs.

27.7 Adjudicators should determine what reasonable expenses would be reimbursed by Canada.

27.8 Adjudicators should have the power to determine stipends for non-lawyer claimant representation, based on government fee and expense schedules.

28.0 In light of their past history within the Canadian justice system and in the interests of achieving fair and unbiased decision-making in this process, we recommend that the training of adjudicators and other participants in the ADR process be much more context-specific to Indian Residential Schools.

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[36] It may be that there is a latent if not manifest feeling that Aboriginal adjudicators might be "biased". The test for bias in adjudication is whether a right thinking member of the public would perceive that the decision maker was predisposed to the outcome in a particular matter. Arguments that Aboriginal persons are predisposed to hold all Aboriginal claimants eligible or predisposed to award more than the person was "objectively" entitled are racist. There is no reason to suppose that a false claim, for example, would be any more attractive to an Aboriginal adjudicator who had attended residential school than to a white male who had not. Absent some reason to perceive a particular bias against or towards a particular claimant, there is no reason why any otherwise qualified Aboriginal person ought not to be an adjudicator in the claims process. On the other hand, numerous studies have shown that the justice system, dominated by white males and almost completely devoid of Aboriginal peoples, has consistently and systematically discriminated against Aboriginal peoples.

28.1 All adjudicators, therapists, lawyers, and others involved in the process of settling survivors' claims should be required to take a training program and a form of certification should be provided on its successful completion.

28.2 Training materials should be simplified and clearly reflect in their contents that the DR process is not a court process but an alternative to the court system.

28.3 The training program should require trainees to spend time living with a First Nations family on a reserve for a few days. During that time, they would visit institutions such as the local educational, recreational, church, and health and welfare facilities, meet with social workers, teachers, elders, children, parents, survivors and other appropriate persons with the objective of understanding the effects of residential schools on individuals and communities.

28.4 The community-based training should be augmented by a training program conducted by appropriate professionals and survivors on the medical, psychological, social and economic effects of sexual and physical abuse committed in the specific context of Indian Residential Schools.

28.5 Materials should be gender differentiated and the impacts of race, gender and class issues and their intersections highlighted.

28.6 Training of adjudicators and others involved in the settlement process should be delivered by an Aboriginal agency.

29.0 We recommend that the proposals in this report be field-tested with a representative sample of survivors, male and female, with claims in both the lump sum category as well as in the sexual, physical and emotional abuse category. We also recommend that the adjudicators and legal counsel undergo the community-based training program as part of the field test. The field test should be organized and overseen by the AFN with the participation of government and survivor's groups.

30.0 We recommend that the Aboriginal Healing Foundation continue and be provided with the necessary funding to sustain its activities.

Part II

Truth-Sharing, Healing and Reconciliation

Introduction

In order to achieve reconciliation between Canada, the churches, and survivors and to facilitate healing among the survivors and the First Nation communities, it is fundamental principle that the harms done be addressed in a holistic manner. The design and execution of the mechanism required to achieve this purpose on a national scale is beyond the scope of this Report but Canada and the religious entities should acknowledge the need and commit to its adequate funding and support and participate in its design with survivors and survivor's groups. The national mechanism could be connected to community-based processes but the design of the truth telling process would ultimately be that of the stakeholders.

It must be emphasized that the development of this process would be in tandem with the refinement of the DR model and that it would not slow down the compensation process and its reforms.

The purpose of this comprehensive truth telling mechanism is five-fold:

1. To create a space for the survivors to tell their stories and have them understood.

2. To create public awareness and a public record of what happened and the consequences.

3. To create a plan or recommendations for future for the restoration and healing of relationships.

4. To ensure that another state-committed atrocity does not take place again.

5. To acknowledge and support the need for the healing of relationships between families and communities, survivors and their families and communities, and all other people who were adversely affected by residential schools.

Recommendations

1.0 We recommend that a truth-sharing and reconciliation process be a component in this national, holistic mechanism complementary to the DR process and survivor participation should be voluntary.

1.1 Whereas the DR process focuses on compensation for individual harms, this mechanism would focus on understanding the nature, causes, context, and consequences of all the harms resulting from residential schools legacy including but not limited to harms to the individual survivors, the communities, the survivors' families, the future generations, culture, spirituality, language, and the relationships between and among all parties involved.

2.0 We recommend that the structure and design of a truth-sharing mechanism should be based on restorative justice principles and the 17 principles that emerged from the Exploratory Dialogues[37] so that it is culturally appropriate and responsive to the context of residential schools legacy.

3.0 We recommend that the truth-sharing mechanism must be inclusive of all the parties that are involved and affected, ensuring they have equal say—the survivors, the Aboriginal communities, the churches, the government of Canada, and the Canadian society.

3.1 It is crucial that the national truth-sharing mechanism be accessible and user-friendly to survivors and their families.

3.2 Counseling support must be provided before, during, and after the process.

3.3 Additional support for the elders should be provided, incorporating other culturally appropriate treatment or responses as needs require.

4.0 We recommend that follow-up providing community support, reconciliation, and rebuilding of relationships be considered essential.

4.1 Claimants should be linked to resources in their community for financial advice, therapy, support groups, and other such services. Access to these services is important for the healing of the individuals, their communities and their nations.

4.2 Survivor's groups and First Nations communities should be encouraged to seek opportunities to collectively share in the funding of truth-sharing processes.

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[37] Canada, Ministry of Indian Affairs, *Reconciliation and Healing: Alternative Resolution Strategies for Healing with Residential School Claims*, 2000, <http://www.inac.gc.ca>

4.3 Current resources and existing programs dedicated to responding to the residential schools legacy should be evaluated in order to assess how they might be best utilized, or modified to complement this process.

4.4 Linkages should be made with the Aboriginal Healing Foundation and other programs already in place or being developed under its mandate.

5.0 We recommend that secondary victims (parents, siblings, spouses and children of survivors) be ensured access to benefits and community programs for harms caused by persons as a result of their attendance at residential school.

5.1 A truth-sharing process should be designed to specifically consider the harms to secondary victims and to communities caused by residential school.

5.2 In exceptional cases the government should consider compensating individuals in the survivor's immediate family for harm inflicted by the residential school survivor.

Part III

Feasibility and Costs

It is clear that Canada's primary motivation in devising the DR program was to resolve the approximately 18,000 tort claims[38] and several class actions that have been filed against it.[39] Without an alternative method of resolving disputes, the current caseload is estimated to take another 53 years to conclude at a cost of $2.3 billion in 2002 dollars, *not* including the value of the actual settlement costs.[40] To date, only 19 claims have been settled under the current DR model. The cost of administering settlements to date is more than triple the cost of the compensation that has been awarded.

In our proposal, a much larger percentage of the available monies would go directly to survivors or their estates and less to the administration and costs of litigation. Although the compensation amounts are considerably more in our plan than in the current DR model, all former residential school students would be compensated, if they choose to apply. We believe the savings in administration, legal fees, litigation, delay and court costs should significantly, if not totally, offset the increased compensation costs.

Administratively, we are confident our proposal will settle claims much faster and that a closure date of December 31, 2010 is feasible. For example, all of the claimants for the lump sum will receive their compensation without the need for a hearing. Moreover, we expect that the majority of claimants for sexual, physical or severe emotional abuse will opt for payment without a hearing through a pre-settlement negotiation process attended by medical and legal adjudicators and representatives of the claimants. We have no reason to believe that the experience in Ireland would not be replicated here, where 75% or more of the survivors of industrial schools claiming compensation for physical, sexual and/or emotional abuse are settling their claims in this manner.

There have been reconciliation programs for breaches of human rights in other countries, and it is important for Canada, when considering costs, to compare itself to these other programs, especially considering its reputation as a champion for human rights and fairness. For example, the Irish industrial schools compensation model, which is about two-fifths the size of the Canadian disaster, is expected to cost approximately 1 billion euros; inflating by a factor of 2.5 for fair comparison, this is 2.5 billion euro. This cost is borne by a population approximately 1/10th the size of Canada's population, so the

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[38] Treasury Board of Canada Secretariat. *Indian Residential Schools Resolution Canada Performance Report for the Period ending March 31, 2003.*Ottawa: Supply and Services Canada [cited June 6, 2004]. Over 1,150 claimants have reached a settlement with the government. This number includes 165 settlements reached under a variety of alternative dispute resolution projects.

[39] Notice of Class Actions: http://www.irsr-rqpa.gc.ca/english/dispute_resolution_class_action_notice.html. Baxter Cloud is an Ontario class action claiming loss of language and culture for $76 billion. *Supra,* note 16.

[40] Treasury Board of Canada Secretariat. 2003. *Department of Justice Canada Performance Report for the Period Ending March 31, 2003.* Ottawa: Supply and Services Canada [cited June 6, 2004]. As of May, 2004, 17 judgments have been issued.

comparable figure in Canada if it was compensating at the same level as the Irish government would be $25 billion. Considering that the sum that has been estimated for the Canadian DR model is $1.7 billion, the gap of compensation is too large to be explained in any other terms than attitudinal ones.[41]

We urge Canada to consider our proposal as a long-term investment for the country, the people of Canada and for the well-being of First Nations. If a value is put on reconciliation and healing past harms, it will certainly result in our proposal being a cost effective one. Statistically, healthy communities are self-sufficient and economically viable ones, resulting in further cost savings. We would invite government officials to work with us to determine an equitable, fair and just lump sum and further refine the cost estimates.

Conclusion

It was made very clear at the March 2004 conference held at the University of Calgary that reconciliation is impossible under the model as it stands. Indeed, there is a real fear that the present system of compensation is causing additional harms to the survivors.[42]

Under the current DR model, many tens of thousands of residential school survivors will receive no compensation, while thousands of others will receive a negligible amount. This has created anger and disappointment amongst survivors and their families who have been profoundly harmed by the residential school experience. Moreover, no survivors will receive compensation for their loss of language or culture or the loss of their family life. Only those who were sexually abused, physically abused or wrongfully confined and who fit within the narrow definitions provided in the current DR model will receive compensation at the low end of the compensation scale according to court decisions.

Our proposed model compensates all Indian Residential School students (or their estates) with a base amount as the starting point, and an additional sum awarded per each year of attendance at an Indian residential school to acknowledge the accumulation of injuries and the extent of harms suffered. The lump sum payment recognizes loss of language and culture, as well as compensates for harms experienced by all residents by virtue of attendance such as loss of family, spiritual abuse, assigned inferiority, and living in a general climate of apprehension and fear.

It is expected that many claimants will elect to file claims for the lump sum in lieu of pursuing other claims because this process relieves them from having to tell their stories,

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[41] Mr. Tom Boland, Deputy Minister and architect of the Irish DR model, described the Canadian DR compensation proposal to the researchers, during the fact finding mission to Ireland, as "*de minimus*" and "being given grudgingly".

[42] In its 2003 Report, the Treasury Board of Canada presciently foresaw that, in attempting to resolve these claims, "the government of Canada risks re-victimizing claimants during the validation process." *Supra*, note 18. See also, National Post, September 14, 2004 cited at note 10, *supra*.

which many find too painful to do. This will benefit both the claimants and Canada because the claimants will receive their compensation sooner with fewer traumas and the government will save considerable costs in administration and expanded damages.

In addition to the lump sum, our proposal compensates individuals who experienced physical, sexual or severe emotional abuse, and consequential damage resulting from those abuses, including cost of care and loss of opportunity. It takes race and gender differences into account as well as allows flexibility in the methods of calculation to more accurately compensate survivors whose abuses manifest themselves in many different ways. The consequences of the abuse will be more heavily weighted than the acts of abuse, thus allowing for more compensation for what often amounts to life-long detrimental consequences of the abuse.

The pre-hearing settlement negotiation we are recommending for physical, sexual, and severe emotional abuse claims will be much simpler and quicker than the hearings that are currently conducted. December 31, 2010 is the recommended closing date of the compensation process. We are also recommending that the process allow for interim payments and an expedited process for elderly and seriously ill survivors. These recommendations would bring greater certainty and less delay to the process and thereby benefit Canada as well.

We have removed elements of the DR model that have the potential to promote racial stereotypes and perpetuate inferiority and replaced them with gender and race sensitive proposals. The model we propose provides clarity for the families of deceased survivors with respect to their eligibility to make claims.

We have proposed a training program and a set of qualifications for adjudicators which will make the process less threatening and more likely to reflect equality principles than the present model does. Additionally, our proposals add the medical perspective to the adjudication process, ensuring that properly trained therapeutic experts with expertise in child abuse will evaluate the consequential harms and future care needs of survivors along with legal and other dispute resolution experts who will bring their expertise to bear on the validation of the claims. Finally, we are recommending that recruitment policies be put in place that will ensure that Aboriginal adjudicators play a major role in the resolution of the claims.

We have made it clear that our proposals would be but a part of a holistic process with a truth-sharing component which would be created in consultation with survivors, survivor's families, secondary victims of residential school abuse, First Nation communities, religious entities, Canada and non-Aboriginal Canadians.

We believe that true reconciliation and healing are possible if our recommendations are incorporated into the existing DR model. They will help to restore the trust in the process that has been lost. The fact that a First Nations perspective has been added to the process makes it much more responsive to victims' realities and needs and will draw many more people into the settlement process instead of going to the courts. We also believe that a

measure of the success of the DR process is the number of people who are willing to trust that it will produce a fair and just resolution of their claims. According to that and all of the other measures described in this Report, our recommendations should be seen as a positive and desired outcome.

Finally, if implemented, we believe our proposed reforms to the DR model will make it one for which Canada and Canadians can be proud. It will enhance Canada's reputation as a leader in the world for the respect of human rights at the same time increasing the stature and respect for First Peoples at home and abroad. It would also set an international standard and methodology for dealing with mass violations of human rights and will finally put behind us, in an honourable way, the most disgraceful, harmful, racist experiment ever conducted in our history.

APPENDIX A: BIOGRAPHIES

Dr. Rita Aggarwala, B.Sc. (Stats & Actuarial Sci), M.Math, Ph.D(Math)
Dr. Aggarwala's career as an academic and industrial statistician has been recognized widely in the media (100 Canadians to Watch, Maclean's Magazine, 2000), in the statistical profession (she has co-authored a book and several papers and has received a variety of grants and fellowships), and by the general scientific community (she was the recipient of the Alberta Science and Technology Leaders of Tomorrow Award in 2000). Currently studying law at the University of Calgary, she continues to apply her statistical and actuarial expertise in the legal realm, both through her consulting company (Sigma Statistical Solutions Inc.) and through academic projects.

Charlene Belleau
Charlene Belleau is a member of the Secwepemc Nation. The Esketemc First Nation (Alkali Lake) has provided leadership in addictions recovery for the past 30 years. Innovation and creativity are required to end the cycle of abuse and violence. Charlene has been an advocate for resolution of residential school issues and initiated various community-based justice programs to deal with intergenerational trauma. Government and criminal justice policy must be challenged to meet the needs of our communities. Aboriginal social recovery is critical to self-government and land settlement issues.

Charlene brings her experience to the Assembly of First Nations as the Director of the Indian Residential Schools Unit where one of the goals is to expedite resolution of residential schools claims and to try to achieve reconciliation with Canada and the Churches.

Dr. Ken Cooper-Stephenson, LL.B. (Lon.), LL.M. (Cambridge), LL.D. (Lon.) 2000
Dr. Cooper-Stephenson has been a member of the Faculty of Law, University of Saskatchewan, since 1971. He was previously a founding faculty member at the University of Leicester, England (1966-71). He was Assistant Dean at Saskatchewan (1981-82, 1991), and is currently Faculty Supervisor of the Saskatchewan Law Review. He was a Connought Fellow in the Legal Theory and Public Policy Program, University of Toronto (1985-86). He has taught at Bond University, Queensland, Australia (1994-95), and was Visiting Professor at James Cook University of Northern Queensland (1997-2000). His publications include a treatise on Personal Injury Damages in Canada (Carswell, 1981, 2nd ed. 1996); Charter Damages Claims (Carswell: 1990); and Tort Theory (Captus: 1993), co-editor. He has also authored articles and book chapters on tort law, constitutional damages, legal theory and reparations claims. In 2000 he was appointed Chair of the committee which reviewed the Saskatchewan no-fault auto-accident insurance plan, and in the same year was awarded an Earned Doctoral degree by the University of London.

Richard Devlin, LL.B. (Queen's Belfast), LL.M. (Queen's Kingston)
Richard Devlin is a Professor of Law at Dalhousie Law School. He has previously been a member of faculty or visiting scholar at Osgoode Hall Law School, the University of Calgary, the University of Toronto and McGill University. Professor Devlin teaches in the areas of Contracts, Jurisprudence, Legal Profession and Professional Responsibility and Graduate Studies.

Dr. Bruce Feldthusen, B.A.(Hons.) (Queen's), LL.B. (Western Ontario), LL.M. (Michigan), S.J.D. (Michigan), of the Bar of Ontario, Professor and Dean
Prior to becoming Dean of the Common Law Section in January 2000, Bruce Feldthusen taught Torts, Administrative Law, Remedies, and Human Rights, primarily in Canada, but also in the United States and Australia. He is best known for his book, Economic Negligence, now in its fourth edition. Dr. Feldthusen's analysis of pure economic loss has been adopted by the Supreme Court of Canada and now provides the organizing framework for all negligence actions in that field. He was one of the first legal academics in the world to study and write about civil remedies for victims of sexual assault. This multidisciplinary research includes extensive interviewing and publication of how survivors themselves experience the legal compensation processes. Dr. Feldthusen was the research director for the Ontario Law Reform Commission's 1989 study on Exemplary Damages authored which has been cited with approval and adopted in many common law jurisdictions in Canada and abroad. He has also written in the area of equality theory, and human rights law. Law and technology, and the implications of technological change for legal education have interested Dr. Feldthusen for many years. Bruce has also practised law, and litigated a number of cases of public interest on a pro bono basis. He works frequently as a litigation consultant and has had a major role in the preparation of numerous Supreme Court of Canada factums and arguments during the past decade. In recent years Dr. Feldthusen has assisted counsel in the preparation of a number of high profile class actions in tort.

Lorena Sekwan Fontaine, B.A., LL.B., LL.M.
Ms. Fontaine is Cree and Ojibway from the Sagkeeng First Nation in Manitoba. Currently, she is an assistant professor at the First Nations University of Canada. Ms. Fontaine has worked with Aboriginal political organizations for the past 15 years. The focus of her work includes advocacy for residential school survivors, and Aboriginal youth. Internationally, she has worked for the inter-American Human Rights Commission of the Organization of American States as a legal intern, and has worked on Indigenous land rights cases in the United States and Belize. Ms. Fontaine is also involved with equality rights issues as a National Legal Committee member with the Women's Legal Education and Action Fund, and as an Equality Rights Panel member for the Court Challenges Program of Canada.

Phil Fontaine, B.A., LL.D. (Brock), LL.D. (R.M.C.)
Mr. Fontaine is Anishinabe from the Sagkeeng First Nation in Manitoba. Fluent in Ojibway, he attended the Residential Schools of Sagkeeng and Assiniboia, and was the first Aboriginal leader to publicly expose the abuses that existed in secrecy within the residential school system.

He began his career as a youth activist with the Canadian Indian Youth Council and later, as Chief of his community for two consecutive terms. Under his leadership, Canada's first First Nation took control over its education system, Child & Family Services, and on-reserve Alcohol Treatment Centre. Upon completion of his mandate as Chief of Sagkeeng, he was Regional Director General for the Yukon Territory for the federal government. In 1982 he was appointed Special Advisor to the Tribal Council for the Southeast Resource Development Council which was followed by his election to the position of Manitoba's Vice Chief for the Assembly of First Nations. In 1991, he was elected Grand Chief of the Assembly of Manitoba Chiefs and served for three consecutive terms, being instrumental in the defeat of the Meech Lake Accord, the development of Manitoba's Framework Agreement Initiative, and the signing of an Employment Equity Agreement with 39 federal agencies.

In 1997 he was elected National Chief of the Assembly of First Nations where he was instrumental in the negotiation of the Federal Government's Statement of Reconciliation, the Clarity Bill, the Declaration of Kinship and Cooperation of the Indigenous and First Nations of North America, and was the first Native Leader to address the Organization of American States.

Following his term as National Chief of the Assembly of First Nations, he was appointed Chief Commissioner of the Indian Claims Commission. Under his leadership, the Kahkewistihaw First Nation's outstanding 1907 land claim was resolved, resulting in a $94.6 million agreement for the Saskatchewan Band.

In July 2003, he was re-elected National Chief of the Assembly of First Nations. He was awarded an Honorary Doctorate of Laws from Royal Military College in 1999 and an Honorary Doctorate of Laws from Brock University in 2004. He was made a Member of the Order of Manitoba in 2004.

Dr. Greg Hagen, B.A., M.A. (Br. Col.), Ph.D. (Western), LL.B. (Dal.) LL.M. (Ottawa)
Assistant Professor and Member of the Law Society of British Columbia, Professor Hagen joined the University of Calgary faculty in 2003 and teaches tort law, intellectual property law and internet law. He is a graduate of Dalhousie University and of the LL.M. program at the University of Ottawa. Professor Hagen taught at the University of Ottawa (Common Law) during the 2002-2003 academic year. After being called to the Bar of British Columbia in 1999, he practiced in the areas of corporate securities and technology law at two national law firms. Prior to entering the field of law, Professor Hagen earned

his Ph.D. in philosophy at the University of Western Ontario and an M.A. in legal philosophy from the University of British Columbia.

Earl Johnson, B.A., LL.B. (NB)
Justice Johnson graduated from Bishop's University in 1968 and completed his law degree at UNB in 1971. From 1972 to 1974, he was in private practice in Fredericton and Saint John New Brunswick. In 1974, he became counsel for the Government of the Northwest Territories in Yellowknife. This was followed by private practice in Yellowknife and Fredericton between 1976 and 1997. From 1997 to 2002, he was senior legal counsel for the Government of the Northwest Territories Yellowknife and government negotiator of the Grollier-Hall residential school pilot project group claim.

In 2002, Earl was appointed Justice and since then has been a Justice with the Nunavut Court of Justice. His professional activities include President and Secretary of Law Society of the NWT, Appointed Queen's Counsel 1991, and President of Northern Addictions Services for five years.

Jennifer Llewellyn, M.A. (Queen's), LL.B (Queen's.), LL.M. (Harv.)
Jennifer Llewellyn is an Assistant Professor at Dalhousie Law School. She earned her Master's in Philosophy from Queen's University and her LL.B. from the University of Toronto before pursuing graduate work in law at Harvard Law School. She was law clerk to Justices Linden and MacDonald at the Federal Court of Appeal. Professor Llewellyn teaches, researches, consults and publishes in the area of restorative justice. Internationally, her work has focused on the potential of truth commissions to serve as institutions of restorative justice in the context of democratic transitions. In 1997, Professor Llewellyn worked with the South African Truth and Reconciliation Commission. She recently served as an expert witness on restorative justice for the Jamaica Commission of Enquiry and was a member of the Research Initiative on the Resolution of Ethnic Conflict based at the Kroc Institute for Peace, University of Notre Dame. Domestically, she serves as a policy advisor to the Nova Scotia Restorative Justice Program. She has also written and lectured on the potential of restorative justice responses to residential school abuse.

Kathleen Mahoney, LL.B. (Br. Col.), LL.M., (Cantab); Diploma, International Institute, Comparative Human Rights Law, (Strasbourg) F.R.S.C., Professor. Member of the British Columbia, Alberta and Ontario Bars.
Professor Mahoney specializes in Torts Law and Human Rights Law as well as Legal Theory. She has held many international lectureships and fellowships including the Sir Allan Sewell Visiting Fellowship at the Faculty of Law, Griffiths University, Brisbane, the Distinguished Visiting Scholar Fellowship at The University of Adelaide and Visiting Fellowships at The Australian National University, Canberra and The University of Western Australia in Perth. She was a Visiting Professor at The University of Chicago Law School 1994, and was a Visiting Fulbright Fellow at Harvard Law School in 1998.

Professor Mahoney has published extensively on human rights, constitutional law and women's rights, as well as on judicial education. She lectures nationally and internationally at Judicial training seminars on equality issues, and has successfully appeared as lead counsel in the Supreme Court of Canada and before Human Rights Commissions. She was lead counsel in a successful class action mediation representing 1,200 First Nation Community Health Representatives on a pay discrimination complaint. She represents several residential school survivors in their claims for residential school abuses. She was counsel and advocate on a team of international lawyers representing Bosnia and Herzegovina in the International Court of Justice, focusing particularly on the issue of systematic rape as a crime of genocide.

She has organized and participated in a variety of collaborative human rights projects in Canada, Geneva, Australia, New Zealand, Spain, Israel, China and the United Nations. She has attended at the Council of Europe as an Independent Expert and North American representative.

She is the 1997 recipient of the Law Society of Alberta and Canadian Bar Association Distinguished Service Award for Legal Scholarship and has received Woman of Distinction Awards from the YWCA and the Soroptomist Club of Canada. In 1997, she was elected to the Royal Society of Canada for her academic achievements and in 1998 was selected to be a Fulbright Scholar. In 1998 she was appointed to Chair of the Board of Directors of the International Centre for Human Rights and Democratic Development for six years. In 2000, the Canadian Bar Association presented her with the Bertha Wilson Touchstone Award in recognition of her outstanding accomplishments in the promotion of equality and in 2001 she was awarded the Governor General's Medal in Commemoration of the Person's Case.

Dr. Sheilah Martin, Q.C., B.C.L., LL.B., (McG.), LL.M., (Alta.), S.J.D. (Tor.), Professor, Member of the Alberta Bar

Dr. Martin came to the University of Calgary Law Faculty in the summer of 1982. While at the University of Calgary, Dr. Martin has taught in many different areas, including Evidence, Commercial Transactions, Contracts, Evidence, Legal Profession and Ethics, Business Associations, Torts and Loss Compensation, Gender, Equality and the Charter, and Legal Process. Her research interests are varied and she now publishes in the areas of constitutional law, health care, reproductive technologies and women in the law and legal profession. She was Dean of the Faculty of Law between 1991-1996. She sits on numerous boards and committees. She is a partner with Code Hunter LLP. Sheilah Martin is currently on sabbatical from the University until June 30, 2006.

Art Miki

Past president of the National Association of Japanese Canadians, Art served from 1984 to 1992 and lead the negotiations with the Canadian government to achieve a just Redress settlement for Japanese Canadians. After years of community consultation and lobbying,

the Japanese Canadian Redress Settlement was signed by the Mulroney government in 1988. Member of Japanese Canadian Redress Foundation, 1989 to 2002. Art is a former teacher and principal, and now citizenship judge. He is the Vice-chair and current Director with the Canadian Race Relations Foundation. Art is a recipient of numerous awards and in 1991 received the Order of Canada.

Dr. William Schabas, B.A., M.A., LL.B., LL.M., LL.D.
Professor William A. Schabas is director of the Irish Centre for Human Rights at the National University of Ireland, Galway, where he also holds the chair in human rights law. Professor Schabas holds B.A. and M.A. degrees from the University of Toronto and LL.B., LL.M. and LL.D. degrees from the University of Montreal. Professor Schabas is the author of 12 books dealing in whole or in part with international human rights law, including Introduction to the International Criminal Court (Cambridge: Cambridge University Press, 2004 (2nd ed.)), Genocide in International Law (Cambridge: Cambridge University Press, 2000) and The Abolition of the Death Penalty in International Law (Cambridge, Cambridge University Press, 2002 (3rd ed.)). Professor Schabas is editor-in-chief of Criminal Law Forum, the quarterly journal of the International Society for the Reform of Criminal Law. In May 2002, the President of Sierra Leone appointed Professor Schabas to the country's Truth and Reconciliation Commission, upon the recommendation of Mary Robinson, the United Nations High Commission for Human Rights.

Barry Stuart, LL.B, LL.M, S.J.D (Mich.)
Judge Barry Stuart, recently retired from his seat on the Yukon Territorial Court bench, has studied and worked in the field of conflict resolution for over 30 years. His primary interest has been focused on finding the constructive potential within decision-making and conflict for building sustainable relationships and innovative outcomes. He has worked in the Courts, Land Claims, in Government, and in several private and public institutions. His work both internationally and nationally has been developed and adapted by others for many different conflicts.

Judge Stuart's law career began at Queen's University, from which he graduated in 1969. That year he won the silver medal for finishing second in his class. He then went on to do post graduate work at the London School of Economics and at the University of Michigan, where he studied International Law and Public Dispute Problem Solving. He has practiced law with a neighbourhood law clinic in London, England, a public interest group in Nova Scotia, and with the firm of Shrum Liddle and Hebenton in Vancouver.
He has worked in Papua New Guinea, South Africa and Indonesia. In Papua New Guinea, he was involved a wide range of issues, including constitutional law, self-government, resource management and community development. From 1973 to 1977 he served as counsel for the Cabinet of the newly independent state of Papua New Guinea in their central planning office. In 1983 he returned to serve as co-commissioner of the Papua New Guinea National Law and Order Study. His work earned him the Independence Medal of Papua New Guinea.

In the Yukon, he was Chief Negotiator for the land and self-government treaties. On the bench, Stuart has been committed to the exploration of new and innovative ways to address the challenges faced by the justice system. His landmark decision in Regina v. Moses provided a key framework for the use of circles in sentencing offenders in Criminal Code matters. R v. United Keno Hill Mines, written by Judge Stuart over 20 years ago, remains a leading authority on sentencing for environmental offences. These judgments, and many others, are referred to by courts, academics, governments and organizations around the world.

He was an assistant and associate Professor of Law at Osgoode Hall and Dalhousie Law School respectively, and a visiting Professor at the University of Waterloo and at the Nova Scotia College of Art and Design and lectures nationally and internationally on such topics as conflict resolution, mediation, consensus decision making and environmental law.

He has been involved in the use of peacemaking circles for 10 years in both the public and private sectors.

Bob Watts, B.A., M.A. (Harv.)
Mr. Watts is currently Chief of Staff in the National Chief's Office for the Assembly of First Nations. His previous experience includes work as Aboriginal Co-Chair of the Aboriginal Healing and Wellness Strategy and senior government positions dealing with First Nations matters. He believes very strongly in the promotion of traditional healing and that the answer to the social, mental, emotional and spiritual problems in our communities can be found in traditional ways.

A member of Tyendinaga First Nation, Bob is a graduate of Behavioural Science at Loyalist College in Belleville and the Harvard School of Dispute Resolution. He has spent much of his professional life working for the Aboriginal community, including with the Ontario Native Council on Justice and as the Executive Director of the Union of Ontario Indians between 1988 and 1991. Between 1991 and 1994 he served as the Assistant to the Secretary for Intergovernmental Relations at the Ontario Native Affairs Secretariat. He was appointed Assistant Deputy Minister of Lands and Trusts Services in 1996 and Assistant Deputy Minister of Indian Affairs and Northern Development in 1998.

Sharon Williams, LL.B. (Exeter), LL.M., D.Jur (Osgoode), FRSC, of the Bar of Ontario
A member of the faculty of Osgoode Hall Law School since 1977, Professor Williams teaches in the Public International Law and International Criminal Law areas.

Among the books she has authored or co-authored are *The International and National Protection of Moveable Cultural Property: A Comparative Analysis, Canadian Criminal Law: International and Transnational Aspects, An Introduction to International Law*

(2nd ed.), *The International Legal System, International Criminal Law* and *A Practical Guide to Mooting*. Professor Williams has written several chapters and many articles dealing with international criminal law, international and national cultural property law, and international environmental law. In 1991, she was awarded the David Mundell Medal for her contribution to law and letters.

Professor Williams has prepared government reports on the extra-territorial aspects of Canadian criminal law, the denaturalization and deportation of war criminals in Canada, and crimes against humanity. She served as a member of the Permanent Court of Arbitration at the Hague from 1991 to 1997, is a consultant to the Canadian Department of Justice on extradition matters, and has acted as Special Advisor to the Canadian Delegation at several sessions of the General Assembly of the United Nations. In 1993 she was inducted as a Fellow of the Royal Society of Canada. From September 2001 until October 2003 she acted as a Judge ad litem in The Prosecutor v. Simic et al at the International Criminal Tribunal for the former Yugoslavia.

Kenneth B. Young, B.A. LL.B. (Man.)
Mr. Kenneth B. Young [Ken] is a citizen of the Opaskwayak Cree Nation in Manitoba, which was formerly known as The Pas Cree Nation.

Ken attended Residential School in Prince Albert, Saskatchewan and Dauphin, Manitoba. He obtained his high school diploma from Dauphin Collegiate and Technical Institute. He attended the University of Manitoba where he attained his Bachelor of Arts and Law Degree. In 1974 Ken was called to the bar and subsequently practiced law in Winnipeg for 17 years.

From 1984-1988, Mr. Young served as Chairman of the Winnipeg Council of Treaty and Status Indians. He moved on to become a member of the negotiating team which resulted in the Northern Flood Agreement for five First Nations in Northern Manitoba. In 1991, he was elected a Regional Vice-Chief of the Assembly of First Nations, representative of the Province of Manitoba. In 1992 he was re-elected for an additional three-year term; and again in November 2000.

It was in 1994 that Mr. Young resigned to work on the Framework Agreement Initiative with the Assembly of Manitoba Chiefs. In 1997 he began working with then National Chief Phil Fontaine at the Assembly of First Nations in Ottawa as a Senior Advisor to the National Chief, which is his present position. His specialty is directed toward the Residential Schools portfolio.

Student researchers:

Erika Carrasco, B.Comm (McGill)
Ms. Carrasco is currently a second-year law student at the University of Calgary. Erika first became involved as a volunteer at the March 2004 conference. She continued

through the summer as Professor Mahoney's research student. Her tenaciousness and fun-loving nature are hallmarks of her personality.

Alice Chen, B. Sci. (Hons.) (Toronto)
Alice Chen is currently a second-year law student at the University of Calgary. She was first exposed to the residential schools legacy in Professor Mahoney's Torts class, subsequently became involved as a volunteer at the March 2004 conference, and then as Professor Mahoney's summer research student.

Ben Gabriel, B.A. (Communication St.) (Calgary)
Mr. Gabriel is currently a second-year law student at the University of Calgary.

Megan Reid
Ms. Reid is currently a first-year law student at the University of Ottawa. This past summer she became involved in the project via working for Dr. Bruce Feldthusen.

Kim Reinhart, B.Mus. (Calgary)
Ms. Reinhart is a second-year law student at the University of Calgary. She became involved in the project through volunteering as a student organizer at the March 2004 conference and has continued her involvement as Professor Mahoney's research student.

This is Exhibit "E"
to the Affidavit of Larry Philip Fontaine
Sworn ~~this~~ July 28, 2006

Commissioner for taking affidavits

Political Agreement

Whereas Canada and First Nations are committed to reconciling the residential schools tragedy in a manner that respects the principles of human dignity and promotes transformative change;

Whereas Canada has developed an Alternative Dispute Resolution (ADR) process aimed at achieving that objective;

Whereas the Assembly of First Nations prepared "The Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools" (the AFN Report) identifying the problems with the ADR process and suggesting practical and economical changes that would better achieve reconciliation with former students;

Whereas the Assembly of First Nations participated in several months of discussion with Canada, the churches and the consortium of lawyers with respect to the AFN Report, moving the process towards settlement and providing education and leadership for all the people in the residential schools legacy;

Whereas Canada and the Assembly of First Nations recognize that the current ADR process does not fully achieve reconciliation between Canada and the former students of residential schools;

Whereas Canada and the Assembly of First Nations recognize the need to develop a new approach to achieve reconciliation on the basis of the AFN Report;

Whereas Canada announced today that the first step in implementing this new approach is the appointment of the Honourable Frank Iacobucci as its representative to negotiate with plaintiffs' counsel, and work and consult with the Assembly of First Nations and counsel for the churches, in order to recommend, as soon as feasible, but no later than March 31, 2006, to the Cabinet through the Minister Responsible for Indian Residential Schools Resolution Canada, a settlement package that will address a redress payment for all former students of Indian residential schools, a truth and reconciliation process, community based healing, commemoration, an appropriate ADR process that will address serious abuse, as well as legal fees;

Whereas the Government of Canada is committed to a comprehensive approach that will bring together the interested parties and achieve a fair and just resolution of the Indian Residential Schools legacy, it also recognizes that there is a need for an apology that will provide a broader recognition of the Indian Residential Schools legacy and its effect upon First Nation communities; and

Whereas the Assembly of First Nations wishes to achieve certainty and comfort that the understandings reached in this Accord will be upheld by Canada:

The Parties agree as follows:

1) Canada recognizes the need to continue to involve the Assembly of First Nations in a key and central way for the purpose of achieving a lasting resolution of the IRS legacy, and commits to do so. The Government of Canada and the Assembly of First Nations firmly believe that reconciliation will only be achieved if they continue to work together;

2) That they are committed to achieving a just and fair resolution of the Indian Residential school legacy;

3) That the main element of a broad reconciliation package will be a payment to former students along the lines referred to in the AFN Report;

4) That the proportion of any settlement allocated for legal fees will be restricted;

5) That the Federal Representative will have the flexibility to explore collective and programmatic elements to a broad reconciliation package as recommended by the AFN;

6) That the Federal Representative will ensure that the sick and elderly receive their payment as soon as possible; and

7) That the Federal Representative will work and consult with the AFN to ensure the acceptability of the comprehensive resolution, to develop truth and reconciliation processes, commemoration and healing elements and to look at improvements to the Alternative Dispute Resolution process.

Signed on May 30, 2005 in the City of Ottawa, Ontario,

FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA

Deputy Prime Minister
The Honourable A. Anne McLellan

ON BEHALF OF THE ASSEMBLY OF FIRST NATIONS

National Chief Phil Fontaine
Assembly of First Nations

This is Exhibit "F"
to the Affidavit of Larry Philip Fontaine
Sworn Ontario, 2006 July 28, 2006

Commissioner for taking affidavits

Redress for the Harms Inflicted upon First Nations by the Residential School Policy-December11,1990

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Special Chiefs Assembly **Resolution No.25/90**

Moved By:

Chief Peter Yellowquill
Long Plain First Nation

Seconded By:

Chief Frank Abraham
Little Black River First Nation

Adopted

Certified copy of a resolution adopted on December 11, 1990 at Ottawa, Ontario

Georges Erasmus National Chief

SUBJECT: Redress for the Harms Inflicted upon First Nations by the Residential School Policy

WHEREAS the Government of Canada had as its policy for decades the assimilation through education and religion of the Aboriginal peoples; and

WHEREAS the Government of Canada contracted and collaborated with various religious organizations to act as agents of the Government in the implementation of this racist policy through the use of residential schools; and

WHEREAS these residential schools were a means of carrying out a systematic program of cultural genocide; and

WHEREAS the residential schools policy constituted a denial of the fundamental human rights of First Nations peoples, including our right to use our own language, our right to practise our religions, our right to our culture in all of its manifestations; our right to an adequate education, our right to basic nurturing needs as children, and our rights to raise and be raised by our families; and

WHEREAS an overwhelming number of First Nations children in residential schools suffered, in addition to the cruelty inherent in the racist policy of residential schools, physical, sexual and psychological abuse at the hands of the clergy and staff of these schools; and

WHEREAS the effects of the residential schools policy on First Nations were catastrophic, with the devastating damage to Aboriginal languages and cultures only slowly being repaired with great effort by First Nations, the inadequate education still reflected in high unemployment rates, and the scars of the physical, sexual and psychological abuse still causing great pain for the victims, their families and communities; and

WHEREAS the Government of Canada with its special trust relationship to Aboriginal peoples is liable and culpable for the denial of these rights to Aboriginal peoples, the harm inflicted upon us, and the victimization of Aboriginal children,

THEREFORE BE IT RESOLVED THAT the Government of Canada issue an immediate and full apology to the Aboriginal peoples of Canada for the racist policy of residential schools; and

FURTHER BE IT RESOLVED THAT the Government of Canada provide compensation to Aboriginal peoples for the damage done to Aboriginal languages and cultures by the policy residential schools, the form and amount such compensation to be determined in conjunction with the Aboriginal peoples; and

FURTHER BE IT RESOLVED THAT the Government of Canada provide compensation, the amount of the compensation to be determined in conjunction with the Aboriginal peoples, to all Aboriginal peoples who endured physical, sexual and psychological abuse at the hands of the clergy and officials charged with administering the policy of residential schools, and to the families and other people affected by the abuse; and

FURTHER BE IT RESOLVED THAT the Government of Canada provide a full range of services to victims of physical, sexual and psychological abuse, their families and communities, to assist with the healing of individuals and communities, the provision of such services to be planned and implemented in conjunction with Aboriginal peoples; and

FURTHER BE IT RESOLVED THAT the Government of Canada, in conjunction with Aboriginal peoples, establish a mechanism to record, fully and publicly, the history of the residential schools policy and its effects on all Aboriginal peoples; and

FURTHER BE IT RESOLVED THAT religious organizations come forward of their own accord to admit their share of responsibility for the tragedy and to support the Aboriginal peoples fully in obtaining redress for the wrongs inflicted upon us; and

FINALLY BE IT RESOLVED THAT the Assembly of First Nations take all possible measures to ensure that the Government of Canada and the religious organizations implement the actions called for by this resolution.

Resolution No. 25/90 - Redress for the Harms Inflicted by the Residential School Policy-June24,1992

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XIIIth Annual Chiefs Assembly

Resolution No.23/92

Moved By:

Chief Del Riley
Chippewas of the Thames First Nation, Ontario

Seconded By:

Chief Harry Nyce
Gitwinksihlkw First Nation, B.C.

Adopted by Consensus

Certified copy of a resolution adopted on June 24, 1992 at Fredericton, N.B.

Ovide Mercredi National Chief

SUBJECT: Resolution No. 25/90 - Redress for the Harms Inflicted by the Residential School Policy

WHEREAS the Assembly of First Nations has passed Resolution No. 25/90 "Redress for the Harms Inflicted by the Residential School Policy" in Assembly on December 11, 1990; and

WHEREAS many First Nations peoples attended residential schools and suffered physical, psychological and sexual abuse; and

WHEREAS the residential school system was one of many attempts to destroy First Nations languages, culture and traditions; and

WHEREAS the effects of residential schools are inter-generational and extensive; and

WHEREAS the Assembly of First Nations has been empowered to seek action to deal with the areas falling under the resolution,

THEREFORE BE IT RESOLVED THAT the Assembly of First Nations pursue a three-part strategy consisting of:

1. the development of a national framework to enhance the provision of appropriate healing processes for residential schools survivors of abuse; and

2. implementing a process by which a historical record can document the abuse experienced by former residential schools students; and

3. to establish a compensation mechanism that would include the need to rebuild and repair personal, cultural and linguistic capacities arising from the wrongs caused by the residential school system.

Healing Strategy-March 10,1998

[Next]

Confederacy of Nations, Edmonton, Alberta, March 9-11, 1998

Resolution No.1/98

Moved by:
Chief Richard Poorman
Kawacatoose First Nation

Seconded by:
Chief Ron Ignace
Skeechestn First Nation

Carried by Consensus

Certified copy of a resolution made on March 10, 1998 at Edmonton, Alberta

Phil Fontaine National Chief

SUBJECT: Healing Strategy

WHEREAS on January 7, 1998, the federal government announced a major initiative as part of the overall response to the Royal Commission on Aboriginal Peoples to establish a healing fund for survivors of residential schools, their families and communities; and

WHEREAS the 4 year $350 million healing fund is intended for Aboriginal survivors of residential schools and is not intended as payment for individual compensation or as a legal defense fund for survivors intent upon pursuing litigation; and

WHEREAS the Assembly of First Nations Chiefs represent all First Nations citizens on and off reserve; and

WHEREAS 80% of Residential School Survivors are First Nations members, represented by their Chiefs and Councils; and

WHEREAS a number of First Nation communities were not involved in the 1991 Statistics Canada Aboriginal Peoples survey; and

WHEREAS the Assembly of First Nations National Office has been involved in influencing the Health Canada/Indian Affairs jointly developed Cabinet Document regarding the development of an arms-length board (Aboriginal Healing Foundation) that will be responsible for administering the healing fund; and

WHEREAS the proposed structure of the Aboriginal Healing Foundation within the draft articles of incorporation includes 7 Directors, (5 appointed by the National Aboriginal Organizations, 2 appointed by the Government of Canada) and 8 Members at Large (appointment to be determined by the Directors) for a total of 15 members; and

WHEREAS the Board must be survivor centered with an assurance that in its structure the interest of First Nations will be protected through appropriate participation of the Assembly of

First Nations Executive Council/National Chief, and

WHEREAS there must be clear recognition of the role of the Assembly of First Nations Executive Council/National Chief in obtaining the Statement of Reconciliation and subsequent Healing Strategy, including $350 Million for community healing; and

WHEREAS it is the position of the Assembly of First Nations Chiefs-in-Confederacy that the $350 million is inadequate, however, this announcement is recognized as a first step in addressing the legacy of residential schools;

THEREFORE BE IT RESOLVED that the Assembly of First Nations Chiefs in Confederacy consider the $350 million healing fund only as a gesture of good faith in beginning the process of reconciliation and healing;

FURTHER BE IT RESOLVED THAT the First Nations in Canada devise their own method of enumeration to determine the number of residential school survivors to be forwarded to the Aboriginal Healing Foundation; and

FURTHER BE IT RESOLVED that the interim board be directed that the following principles be incorporated into the draft Articles of Incorporation for the Aboriginal Healing Foundation - Draft 5.

- The principle of clear language that a majority of those affected by the residential school experience were First Nations people within the jurisdiction of Chiefs and Councils and that all structures administering the healing fund must reflect this principle.
- Two further AFN representatives be added to the interim board immediately for a total of three out of nine;
- Of the 8 Members at Large to be added to the Board, 5 must be First Nations people or their representatives;
- The principle of unanimity on by-law and Charter amendments;
- The principle of clear and strong wording that specifies that allocations must be made in accordance with the demographic and geographic realities and concentrations of those affected by residential schools;
- The principle of clear wording that when the interim board

vets names for the 8 Members at Large for the permanent board, the interim board would have to obtain the Assembly of First Nations Executive Council/National Chief's consensus for the five (5) First Nations positions.

- The principle of gender equality be included in selection of the members of the permanent board; and
- The selection criteria state that all First Nation people be considered regardless of residency;
- The principle of the government appointees to the board would only have voting power on amendments to the bylaws and Charter.
- The principle of clear wording stating that regardless of when the fund is transferred to the legal entity, the dollars transferred include all interest accrued by the fired starting April 1, 1998.

FURTHER BE IT RESOLVED that the National Chief in consultation with the Executive Council have the latitude to negotiate further or alternate conditions as circumstances or negotiations arise on the development of the Aboriginal Healing Foundation and the overall Healing Strategy. That legal counsel be authorized to take the AFN position forward to the Government of Canada to negotiate wording to be included in the draft articles of incorporation and by-laws.

FINALLY BE IT RESOLVED the Assembly of First Nations Executive Council/National Chief update the Chiefs-in-Assembly on the developments of the Aboriginal Healing Foundation and the Healing Strategy at the June Annual General Assembly in Toronto, Ontario.

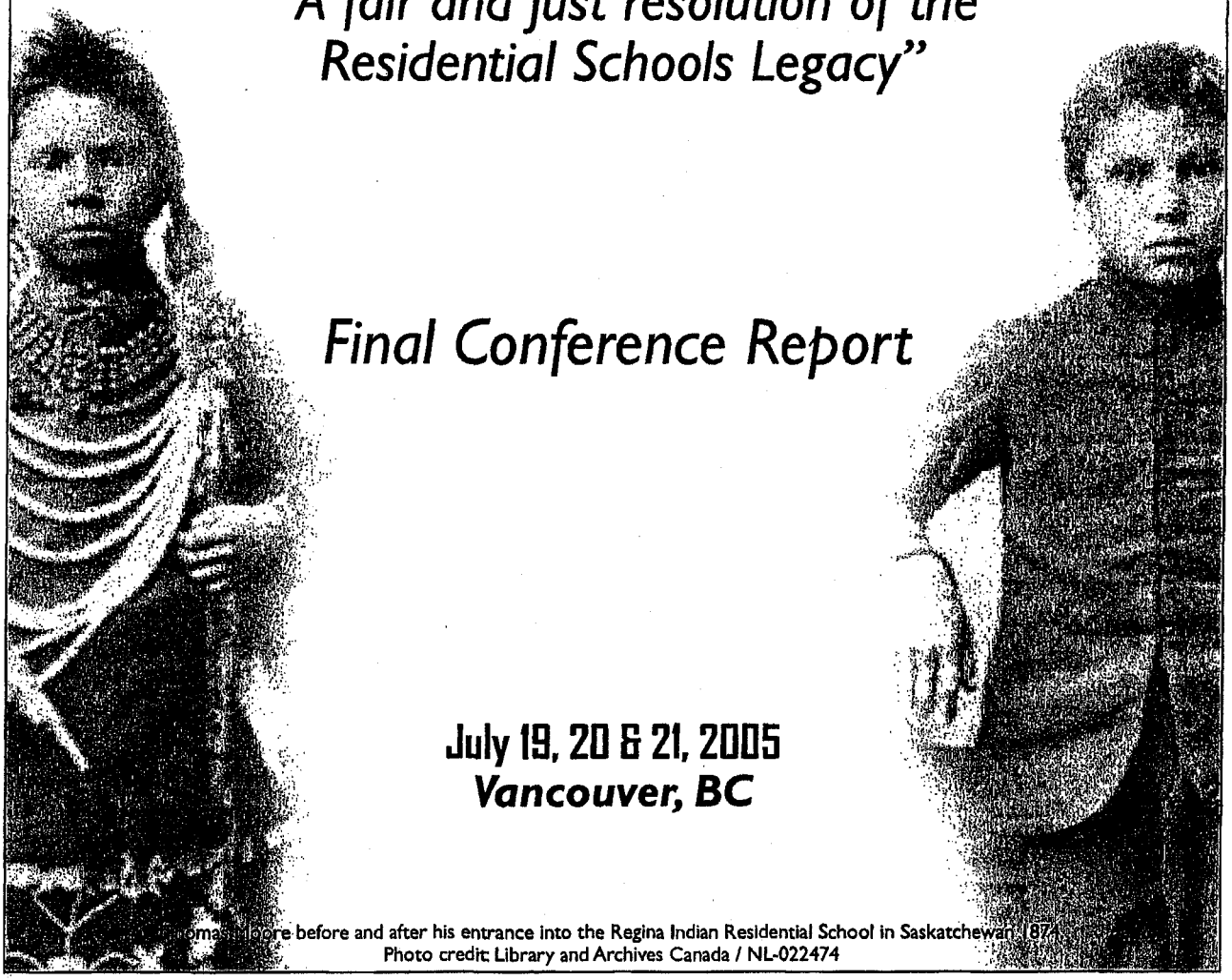
This is Exhibit "G"
to the Affidavit of Larry Philip Fontaine
Sworn Ontario, 2006 July 28, 2006

Commissioner for taking affidavits

Assembly of First Nations

National Conference on Residential Schools

"A fair and just resolution of the Residential Schools Legacy"



Final Conference Report

July 19, 20 & 21, 2005
Vancouver, BC

Thomas Moore before and after his entrance into the Regina Indian Residential School in Saskatchewan / 1874
Photo credit: Library and Archives Canada / NL-022474

ASSEMBLY OF FIRST NATIONS
NATIONAL RESIDENTIAL SCHOOLS
CONFERENCE

held July 19-21, 2005
at the Westin Bayshore Resort & Marina
Vancouver, British Columbia

Proceedings Prepared By:

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ASSEMBLY OF FIRST NATIONS
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Day One – July 19, 2005

INTRODUCTION OF THE CO-CHAIRS

Co-Chairs Shawn Atleo and National Chief Phil Fontaine were introduced.

OPENING CEREMONIES

An Opening Prayer was offered by Chief Leah George Wilson, Tsleil Waututh Nation. A Drum Song was presented.

WELCOME ADDRESS

Chief Leah Wilson-George, Tsleil Waututh Nation, greeted honoured guests and welcomed them to Coast Salish territory and shared her First Nation name and information on her lineage. She acknowledged work performed in the territory during the prior week, and recognized that while First Nations people must move forward, they must always look back and see where they had come from. Chief Wilson-George added that it was the collective way of First Nations to not leave anyone behind, and acknowledged ceremonies that had been held for deceased survivors. The importance of the continued work on residential school issues so that all of the communities could experience health and harmony, was noted. Delegates were invited to hold that idea in their hearts during the Conference.

Chief Ernie Campbell, Musqueam Nation, shared that it was an honour to speak on behalf of his people and to welcome the Conference to his traditional territory. He acknowledged the AFN for respecting traditional protocol by inviting him to speak, and shared that it was unfortunate he could not welcome delegates in his traditional language because of his personal experience in the residential school system.

Chief Campbell referenced the injustices done to First Nations in the form of laws, legislation, road blocks and other efforts to "take the Indian out of the Indian", and to kill their souls. He acknowledged the strength of the delegates and of their ancestors for holding on to their First Nations traditions.

Chief Campbell spoke of his time at St. Paul's Residential School, and those who had been beaten for speaking their language, offering that their strength amazed him. As well, he acknowledged the sad stories of many other survivors, noting that their efforts and strength amazed him and caused him pride. He thanked the delegates for their attendance, extended his greetings, and reiterated his pride in survivors' strength.

Chief Gibby Jacobs, Squamish Nation, welcomed delegates to the territory on behalf of his Nation, and thanked and welcomed the National Chief while acknowledging his increased presence in BC since his election.

Chief Jacobs spoke of the fortune of his sister and himself, who were the only children in his considerable family to have escaped the experience of attending residential school. However, having first hand knowledge of the impacts his siblings had faced, he offered hope that the delegates' physical, emotional, and spiritual scars would be faded in their memories and minds, and acknowledged that many had been hurt.

Chief Jacobs spoke of the fundamental need in the communities for healing, and offered that many leaders were striving to make things better within their communities. He added that, while economy was

an important thing, the health of community members was vital in order for people to go forward in a good way, without forgetting their history and where they came from.

Co-Chair Atleo thanked the Coast Salish Chiefs for their welcome. In appreciation, the National Chief presented each with a book on residential schools and a braid of sweetgrass.

Co-Chair Atleo reviewed the Conference Agenda, noting that it was laid out in order to talk about what was, what is, and what could be. He expressed appreciation for the Conference dinners that would be provided by the Squamish and Musqueam Nations, as noted in the Agenda.

FIRST NATIONS LEADERSHIP COUNCIL OF BRITISH COLUMBIA

Co-Chair Atleo provided an overview of the composition and mandate of the First Nations Leadership Council of BC, and referenced the historical March 2005 meeting of the BC Chiefs at which a Leadership Accord was signed.

Grand Chief Edward John, First Nations Summit of BC, acknowledged the Coast Salish Chiefs for their welcome, and thanked the National Chief and Executive for convening the Conference and for inviting delegates who understood the impacts of residential schools. He expressed regrets on behalf of Chief Stewart Phillip, Union of BC Indian Chiefs, who could not attend given previously scheduled community meetings, sharing that Chief Phillip was supportive of the Conference and the activities in moving forward.

Chief John provided information on his ancestry, noting that he had attended residential school in BC, and had been assigned number 34. In response to his invitation, delegates raised their hands and yelled out the numbers that they had been assigned in residential school. Chief John spoke of his residential school's closure, noting that it had been torn down by the community one year after its closure because there was such anger and animosity towards it. At the same time, he recognized that many residential schools across the country had been closed down and had or were being used as vehicles of healing, such as St. Mary's.

Comments were offered regarding the residential schools in BC, noting that three to five generations of First Nations students had attended the schools, many who were just babies at four years old. He referenced Chief Campbell's remark that the purpose of the schools was to "take the Indian out of the Indian"; noting that survivors' job now was to reclaim who they were.

Chief John noted that "The Apology" was an issue on the Agenda, and emphasized the need for the Prime Minister to address the House of Commons and to say "I am sorry" to the First Nations, Inuit and Métis, without any additions, qualifications, or conditions – just to offer an apology. He noted that many people were waiting to hear that apology, recognizing that there was a huge degree of nervousness on the part of the government and its advisors that apologizing was an admission of legal liability. Chief John reiterated that the Prime Minister would do the right thing for the people who attended residential schools and their children and grandchildren if he admitted that what the government did and said was wrong, and apologized.

Reference was made to the personal injury model, which focused on the individual rather than the family, the community, or the Nation. The importance of understanding the proposed compensation model and its limitations was noted. Chief John shared that the languages had been beaten out of First Nations people, and noted that the question of how that loss would be addressed in the model would be discussed in greater detail during the Conference. The importance of the government compensating and apologizing to those who suffered the abuses of residential school was emphasized.

Chief John acknowledged that anger and rage was experienced as these issues were discussed because people were reminded of the horrific things that had happened. He recognized the silent rage of many, adding that a lot of people who had attended residential school were buried because they did not know how to deal with that rage.

Chief John noted that the courts of Canada and the provincial and federal governments had denied the fact that Aboriginal people existed, and instead said "prove to us who you are, that you are Aboriginal and Indigenous peoples". He offered that this was a very insulting and racist approach. Regardless, it was noted that the Canadian public did not take offence at the statements filed by the lawyers in this regard. The need for the country to end its history of denial and suppression, while recognizing that the residential schools were a small part of the country's strategy to dispossess First Nations of their lands, history, languages, was conveyed.

Chief John shared that there was a need for First Nations to go through the process of reclaiming themselves, and to bring their traditions into the modern world in order to rebuild their communities. He recalled being called "dumb Indians" in residential school, and of not knowing his First Nation traditions and practices. It was shared that those who attended the schools found themselves in a "no man's land" between cultures, which many of their friends and relatives could not understand.

Chief John concluded by acknowledging the importance of peoples' stories, which formed a part of First Nations' identity and history, adding that denying that history led to conflicts and confusion.

On behalf of the National Chief and the Assembly of First Nations, Co-Chair Atleo acknowledged the Board of Directors and staff of the Aboriginal Healing Foundation and of the Indian Residential School Survivors Society, as well as the counselors' contributions and presence during the Conference. He also acknowledged Manitoba MP Pat Martin for his presence.

Co-Chair Atleo shared that his father had attended Alberni Residential School in BC for 12 years, and noted his pleasure at meeting people in his travels who had attended that school and recalled his father. He referenced the 1997 Delgamuukw judgment, which accepted the oral history of First Nations people in court, noting that his father saw it as Canada's first acknowledgement of him as a person. Co-Chair Atleo also thanked his father and his colleagues for their time on the soccer field as he was growing up, sharing that sports were seen by many as being helpful in bringing people together.

Co-Chair Atleo spoke of his discussions with his father about the challenges that the First Nations people had faced, back to the debates in the 1500's about whether or not the Indigenous peoples were human. His father's observation of the evolution of perceptions of Aboriginal peoples was referenced. Co-Chair Atleo noted that Shakespeare's play, the Tempest, had at first negatively portrayed an Indigenous character that was, over time, recast as having grinning intelligence, strength, and morality.

Chair Atleo recalled that his father had told him that it would be difficult to move forward in making changes, but that it would be more difficult if First Nations did not work together. As such, the importance of First Nations working together and supporting one another was emphasized.

Co-Chair Atleo acknowledged the National Chief for his leadership on critical issues, and invited Charlene Belleau, Indian Residential Schools Coordinator to introduce a special presentation to the National Chief.

Ms. Belleau welcomed delegates, thanked the Chiefs for their welcome, and on behalf of the survivors, the former students and those who did not survive the residential schools, she thanked the National Chief for his work on residential school issues. A DVD was then played which depicted photos and videos of residential schools and former students, and which included audio testimonials of residential school experiences, and addressed more recent accomplishments on the residential school file. Ms. Belleau indicated that the DVD was a gift in appreciation of all of the leadership that the National Chief had provided to give voice to the former residential school students and to remember those who had not survived.

KEYNOTE ADDRESS

National Chief Phil Fontaine welcomed delegates and thanked those who had made the Conference possible and the Coast Salish Chiefs for their welcome. He shared "it isn't about one person, it's about all of us", noting that the delegates were present to talk about the outcome of collective efforts on residential school issues. He thanked the delegates for providing the opportunity for him to be involved.

National Chief Fontaine indicated that the delegates had much to talk about at the Conference, noting that there was good information to share, and that there was a need to hear from the survivors on important matters that required their considered recommendations, thoughts and ideas. It was offered that the gathering was about the survivors, and that there was a desire to resolve and bring closure to the matter, which could only be achieved with the survivors' full support. He asked the delegates for their patience and understanding throughout the Conference.

The National Chief acknowledged the support that the Assembly of First Nations had received from MP Pat Martin in his work on the Standing Committee on Aboriginal Affairs in support of First Nations, which had contributed to the signing of the Political Accord with Canada on May 30, 2005. He reminded delegates that the successful resolution of residential school matters required a significant attitudinal shift, and offered that one of the most important vehicles for that shift to occur was the media:

Reference was made to a July 19, 2005 National Post editorial in which it was offered that the *Marshall* decision reaffirming First Nations' Treaty rights was not necessarily a good decision for the country. Another article, which undermined the AFN's position by lumping the AFN with other groups seeking reconciliation, thereby not recognizing the uniqueness and distinctiveness of the First Nations' experience of facing the onslaught of a racist and genocidal effort, was discussed. It was offered that there was a need to hold the media accountable by demanding an affirmation of First Nations as being integral to Canada. The need to be vigilant and aware was noted, so that whenever First Nations were attacked they would rise up and fire back, always in a dignified and respectful way.

National Chief Fontaine indicated that the original agenda had included a presentation by Commissioner Frank Iacobucci, who had been honoured by First Nations in Kenora, ON, in a traditional ceremony conducted by Fred Kelly and assisted by other community Elders. The Commissioner then visited the National Chief's home community, to walk on the site of the residential school that the National Chief had attended for seven years, in order to get a sense of what the experience must have been like for the students. The intent of both events to communicate to the Commissioner that survivors were real people who had suffered for many years and who were anxious to live out their lives in peace and some comfort was noted, recognizing that this would never be achieved without a fair and just resolution being reached.

The National Chief acknowledged the experiences of survivors, of the parents crying in the night, and of the generations of children who had been stolen from their families, penned up in schools, beaten for speaking their languages, and physically, sexually, and psychologically abused.

Claims that the residential schools were set up "in the best interests" of First Nations, to assist them to become "good Canadians" were referenced. However, it was noted that this viewpoint conflicted with Duncan Campbell Scott's statement that the purpose of the schools was to "kill the Indian within the child", and John A: MacDonald's statement that the Indians were "no better than animals", which better reflected what was truly behind the residential school policies.

National Chief Fontaine offered that these policies had been about assimilation and getting rid of the "Indian problem". He added that, if quality education had been the true goal, the schools would have been in or near communities in order to maintain family ties, and the facilities would have been properly maintained and funded. It was shared that many residential school students had been used as cheap labour to ensure that the institutions ran efficiently and cheaply, in the interest of the churches.

Reference was made to comments by influential Canadian's and First Nation individuals who had said things like "I got strapped and look how I turned out". It was offered that these comments were hurtful because the residential school issue was about so much more than being strapped.

Comments were offered on the staggering numbers of physical and sexual abuses that had occurred in residential schools. The National Chief noted that the issue was about The State assaulting an entire culture, and trying to get rid of the First Nations peoples of Canada. He shared that this was not about ancient history, and recognized that residential schools had happened to the delegates, to their parents, and to their grandparents. He added that First Nations' languages and cultures had nearly been lost and that many people still struggled to live an ordinary life in the face of having been affected by residential schools, which were a "blunt instrument wielded against our way of life". Notwithstanding this, National Chief Fontaine noted that First Nations did not condemn all people who had worked in the residential schools, but the residential school system itself.

An important point made in the Royal Commission on Aboriginal Peoples (RCAP) Report was recalled, which stated that even if there had been no abuse and the residential schools had been well funded, they still would have been devastating.

It was offered that the residential school experience was a scar on the shared history of First Nations and Canada, and that its legacy was a burden on all Canadians that must be shared by the country. The need for Canadians to understand what Canada had been was noted. The need to investigate and document the origin, purposes, and effects of residential schools and to have a national truth telling process in order to come to grips with this history was referenced. Not to undo what was done or to wash away memories, but to take the burden off of First Nations so that it was not placed on the shoulders of their children.

In spite of the impediments that First Nations faced, the National Chief offered that they were gaining ground and moving forward. He acknowledged that youth were reaching out to their Elders to learn their traditions, teachings, and values. He recognized that there was still a tendency for many to dwell on the past or to become preoccupied with the harm that had been inflicted which was a burden that they placed on their children. It was shared that the youth did not deserve this burden and that it had to be cast aside in order to give the children hope and inspiration and to lift them up and to remind them always that First Nations are a good people, with tremendous good, genius and incredible talent. The need for balance was noted.

The opportunity that existed to bring closure was referenced. It was offered that people would need to work together to bring about closure, and that this required involvement of government, Canadians, churches, lawyers – all those with an interest in the matter – to work together. Otherwise, it was suggested that people would continue to be plagued by this issue, which the people and the communities did not deserve.

National Chief Fontaine added that the scars of the residential schools would always remain, but must be remembered as a dark passage in First Nation's history. He offered that, by learning from it, First Nations could ensure that they never allowed another government to be as cruel to others as they had been to First Nations.

Delegates were informed that AFN's Political Agreement with Canada recognized the need for healing, reconciliation and compensation, particularly given that the current Alternative Dispute Resolution (ADR) process would not achieve a fair and just resolution.

It was offered that there were approximately 87,500 living survivors, a minority of whom had accessed the ADR process, and that at the current rate, it would take 53 years to settle all the claims and would cost $2.3 billion in administrative fees alone – four times what would be paid out to survivors. It was noted that waiting 53 years would mean that most of the survivors would have passed on without having seen justice, fairness and healing, recognizing that the average age of survivors was 57.

The National Chief added that the ADR process: dealt with survivors unfairly and unequally, treating men and women differently, and with varying degrees of compensation, from location to location; focused on acts of abuse but not the ongoing affects of the abuse; and only focused on individual abuse, not the real and devastating effects of cultural breakdown, such as loss of language. He offered that the need for a better way had been clear to the AFN, and had led it to push for a final settlement that would include all those who had ever attended residential schools and that would address all elements of concern.

Delegates were informed that the federal government had committed in writing to settle residential school claims – period. That it had not agreed to a process in the distant future, but had agreed to resolve these issues once and for all so that people could carry on with their lives.

It was offered that the Agreement spoke about: a national full apology to be presented to survivors and the First Nation community in a significant public ceremony; an improved compensation process for severe sexual and physical abuse; a modified ADR process to make it easier for those who wished to proceed with claims to do so; a lump sum payment of $10,000 for all former students for recognition of loss of culture and language and an additional $3,000/year for every year that was attended; a fast tracked process and early payment for the sick and the elderly as defined by the survivors; a national forum for truth telling; an ongoing role for the Aboriginal Healing Foundation; and an ongoing and central role for the AFN.

It was noted that the Agreement was not a process for the distant future, but was a settlement which was in the final stage of negotiations to bring matters to a conclusion. He offered that Justice Iacobucci had until March 31, 2006 to bring forward his report, but that every effort would be made to conclude matters before then, particularly in relation to the early payment of the sick and elderly.

Information on Justice Iacobucci's personal and professional background was provided, noting that he was a person who believed in human dignity, and who struck the National Chief as someone with a gentle soul who would serve survivors well. It was offered that "justice delayed would be justice denied", that there had already been sufficient discussions, and that negotiations with the lawyer on the final settlement were in progress.

The National Chief discussed the AFN's foremost responsibility to always act in the best interests of the survivors, to better understand their priorities, and to ensure that their voices were heard. In respect of individuals' free will, unique perspectives, and history, it was added that no one would be forced to accept the final settlement negotiated by the AFN that survivors could opt out at any time, and that if they wished to pursue their claim through the courts the AFN would not stand in their way. However, the National Chief's view that the final package would be good for all was shared.

National Chief Fontaine expressed his belief in reconciliation, recognizing that it could mean different things to different people. He offered that reconciliation in this case was about the residential school legacy, the sense of resolving past matters, and that ultimately, it was about forgiveness. It was hoped that, with an honourable settlement, the conditions would be set for forgiveness in order to heal the relationship between First Nations and Canada.

The National Chief indicated that, if delegates were troubled by the Conference and what was being said, there were counselors in attendance to support and hold them. He encouraged delegates, "do not fear", and respected that some people were not ready to discuss reconciliation. The need for Canada to do its part as a party to the Agreement was referenced, recognizing that Canada built the residential schools brick-by-brick and now needed to work with First Nations to tear down the walls that blocked their path forward.

National Chief Fontaine noted how important it was for the communities, survivors, and youth to move beyond the residential school experience, to close this tragic chapter, and to move forward with a firm resolve that the future will be brighter, with more hope for all. As such, it was noted that the Agreement with Canada was so much more than being about money, a lump sum payment or compensation, but was about reconciliation and balance in peoples' lives, to give them the confidence needed to move forward, and to give hope to the young, that it was about forgiveness and reaching out to all peoples, no matter what they had done or said.

In concluding comments, the National Chief offered that anyone who had believed that they could eradicate a people from the face of the earth, as they had attempted to do with First Nations, was foolish. However, the need to move beyond that was noted, to reach out, and to say that Canada deserved to be better than it has been for all peoples, must ensure that there is equal opportunity for all people, and must resolve not just this experience, but all land claims, in order to be about making a better life for all.

Throughout his address, the National Chief referenced his "Speaking Notes for Assembly of First Nations National Chief at the National Residential Schools Conference – Components of Reconciliation and Forgiveness", dated July 19, 2005 (provided as Appendix 1).

HISTORICAL OVERVIEW

The Royal Commission on Aboriginal Peoples, Canada's Statement of Reconciliation and the Aboriginal Healing Foundation

Georges Erasmus, Chairman, Aboriginal Healing Foundation, acknowledged and expressed his pride in the accomplishments and leadership of the National Chief.

Mr. Erasmus provided background information on the Royal Commission on Aboriginal Peoples (RCAP) and its mandate, noting that residential schools had been an important issue in all of the communities that the Commission had visited during its term. As such, the Commission had acknowledged the need for a further inquiry into the issue of residential schools.

It was shared that the RCAP was appointed in 1991, and that its final report made 440 recommendations and called for fundamental changes between Aboriginal peoples, Canadians, and the governments of Canada. The RCAP recommendations specific to residential schools were reviewed, and the four principles required of mutual recognition, respect, sharing, and responsibility were noted.

Reference was made to the Government of Canada's Statement of Reconciliation made in January 1998, which was accompanied by the announcement of "Gathering Strength, Canada's Aboriginal Action Plan".

From the Plan, the Aboriginal Healing Foundation (AHF) had been created on March 31, 1998, to manage the $350 million committed by the Government of Canada for healing. Details of the AHF's 11 year mandate, and funding and investment restrictions which had led to many problems were provided.

Noting that the AHF had become a voice for survivors, without becoming an advocate, Mr. Erasmus shared that the losses of languages and cultures had been acknowledged as one of the most damaging legacy of the residential schools. However, it was added that the AHF had been unable to impact in this area given the restrictions placed upon it by government.

The AHF's contribution to a promising beginning was noted, recognizing that there was much still to do with the need for a longer term government commitment to healing given that a sudden conclusion to funding would inflict further damage to individuals and to the goal of healing and reconciliation. Delegates were provided with information regarding the AHF's commitments to date to healing projects, and were informed that in March 2007 all project funding would come to an end with the AHF closing its doors in September 2008.

In conclusion, Mr. Erasmus thanked delegates for the opportunity to present, and wished them well in their discussions at the Conference.

Exploratory Dialogues and Principles of Engagement

Glen Sigurdson shared that he had grown up across the lake from the community in which the National Chief had grown up, noting that their lives had intercepted the first time 36 years previously. Highlights of their personal and professional interactions since that time were referenced, and Mr. Sigurdson shared his pride in the National Chief and his capacity for leadership.

Reference was made to the Exploratory Dialogues, noting that a scroll created by the people who had participated in Dialogues that had occurred across Canada was on display at the Conference. He referenced one scroll signatory's comment in the beginning of the Dialogues that "We have finally begun to confront the devil known as the residential school campaign".

Utilizing an overhead presentation titled "Reconciliation and Healing: Alternative Resolution Strategies for Dealing with Residential School Claims 2000" (provided as Appendix 2), Mr. Sigurdson discussed the goal of the Dialogue and its outcomes including: the development of a Statement of Principles for the implementation of alternative approaches; contributions to the concept of Pilot Projects initiated at different locations across the country; creation of a safe place for difficult conversations; and to open a dialogue where none had existed before.

Mr. Sigurdson spoke of the idea for the Dialogue which had been funded through the Innovative Dispute Resolution Fund, acknowledged key participants who had been involved from the outset of the Dialogue, and discussed the shape and form that the Dialogue took. It was noted that the Dialogue sessions across the country led to the emergence of guiding principles to inform and assist people in local areas with how best to create processes that would work for them.

Mr. Sigurdson reviewed the principles upon which the identification of the Dialogue participants and the process itself were decided, and provided a snapshot of specific related feedback received. Outcomes of the Dialogue were summarized as follows: disclosure with safety; validation with sensitivity; remedies with flexibility; commemoration with respect; and healing, closure, reconciliation and renewal.

It was noted that many survivors' possible elements for remedies for abuse had been discussed and included monetary compensation, apologies, creating understanding in the broader community, creation

of funds for healing, education and cultural recovery, effective access to training, memorial and community ceremonies, and commitment to future prevention activities.

Delegates were informed that a key statement from the Dialogue was that the principles identified in the Dialogue should be used as a guide, to be respected but not rigidly applied, with innovative adaptation encouraged, while recognizing that each principle was essential. The need for training and awareness in the principles and how best to use them, was referenced.

Mr. Sigurdson spoke of the importance of understanding the history in order to consider the extent to which the history could assist in informing current conversations. He concluded his presentation with a reading of the Dialogue's mission statement arising from its Final Dialogue.

Additional information on the Dialogue was offered in a paper titled "Reconciliation and Healing: Alternative Resolution Strategies for Dealing with Residential School Claims" (provided as Appendix 3).

Co-Chair National Chief Fontaine thanked Messrs. Erasmus and Sigurdson for their presentations.

Litigation: The Tort Model

Jon Faulds, J.R. Miller, thanked the National Chief and the Assembly of First Nations for having invited him to speak at the Conference and expressed regrets on behalf of David Paterson who had to depart earlier in order to honour a prior commitment. As well, he expressed appreciation to the National Chief and the AFN for having moved mountains in getting the government to the point where it was willing to seriously consider resolution to the residential school issue as a whole.

Mr. Faulds provided information on his professional background, noting that his focus was on what the law could do to help with residential school issues. He offered that the courts had more recently begun to be fair and just in their dealings with Aboriginal peoples, adding that the obligation of judges was to be just and fair to everyone who appeared before them. It was noted that the court allowed the most vulnerable person to bring the most powerful person to account, allowed for the brightest light to be shined on the darkest moments, and was a place where one person could make a difference. He acknowledged Willie Blackwater, who had shown that one person's actions could attract the attention of an entire country, and spoke of the importance of recognizing such individuals for their important contributions to attempting to reach a resolution to the residential school legacy.

Mr. Faulds offered reassurance that the residential school litigation and lawsuits would be pursued until a settlement for everyone had been achieved. It was hoped that the new initiative resulting from the AFN's efforts would lead to an overall settlement, noting that until that was achieved, the lawyers, leaders, and survivors would continue to push for resolution with every tool that they had available to them.

It was offered that the history of residential school lawsuits could be broken down into three phases. The history began in the late 1980's and the early 1990's as the stories of physical and sexual abuse became public. This phase involved individual claims by those who had suffered abuse with the role of the government in such conduct being what was new. Individuals brought forward claims which focused more attention on the institutions which non-Aboriginal Canadians had no personal knowledge of. It then became apparent to the Canadians at large that the problems of residential school were far deeper than what had been understood, that there had been a systematic mistreatment of a people based on who they were, and which had resulted in their placement in institutions where they were separated from all that was dear to them, where they were mistreated, and where attempts to brainwash them were made.

The recognition of the true nature of residential schools led to the second phase of lawsuit, which were mass claims on behalf of residential school students who brought their claims together. The common

element was that they had attended residential schools and should be compensated for the harm that they suffered through attending. This led to the third phase of the litigation, the class action phase, wherein many people had similar claims and any one person could bring forward a claim on behalf of all of them as long as the claim was certified by the courts.

In the case of residential schools there have been a number of class actions, the most serious and most advanced being the *Baxter* class action. Information on the details of the class action, which had applied for certification on behalf of all residential school survivors in Canada, was provided. The *Cloud* class action case in Ontario was also referenced, noting that it had been certified, with the Supreme Court of Canada, denying the Government of Canada's request for an appeal.

It was offered that class actions provided a way in which people with similar claims could be treated fairly and consistently, noting that once a settlement was reached, it was enforceable and could not be changed.

In concluding comments, Mr. Faulds indicated that the lawyers looked forward to the discussion that would take place with Justice Iacobucci over the next several months, noting that they hoped to be a part of the resolution for the residential school legacy and in achieving closure on the residential school issue. It was offered that the lawyers remained completely committed to pursuing the action through the courts if necessary, with the approach being "litigation if necessary but not necessarily litigation".

IRSRC Out of Court Settlement Approaches: Processes, Programs and Services

National Chief Fontaine indicated that the discussions and negotiations leading to the May 30, 2005 Agreement had been achieved because of peoples' commitment, generosity, and ability to sway other important people. He introduced Deputy Minister Dion as being an individual who was key to the successful outcome of the May 30, 2005 Political Agreement, and who treated First Nations with respect and fairness.

Deputy Minister Mario Dion, Indian Residential Schools Resolution Canada (IRSRC), indicated his pleasure to present to the Conference, and discussed the steps that had been taken by the government relating to compensation for attendance at residential school.

Deputy Minister Dion advised of his appointment in the spring of 2003, and referenced the significance of the May 30, 2005 Political Agreement which tried to do the best for those involved in the residential school issue. He shared that the government had realized the complexity of the issue which had led to the creation of IRSRC, and the 1998 Statement of Reconciliation, and referenced the government's acknowledgement of its policies which had significantly impacted on First Nations peoples.

It was noted that the leaders had asked for more than the Statement of Reconciliation, and the creation of the Aboriginal Healing Foundation (AHF) was referenced. The AHF's receipt of an additional $40 million in 2005 in order to continue its work was noted, and the significance of its work, involving more than 200,000 in healing activities, was acknowledged.

Deputy Minister Dion shared that, in spite of all the work that had been done to date, with 2,500 resolutions having been reached with former residential school students, the speed of settlements had been way too slow.

Reference was made to the Government's efforts to reach agreements with various churches to pay their share of settlements, adding that there had been limited progress made with the Catholic Church to ensure that former students received 100% of the compensation to which they were entitled. In 1998, he noted that alternative approaches to resolving claims had been developed.

Delegates were advised that the Dialogue had informed and transformed how residential school issues were understood and had provided a way to find solutions for the First Nations, Métis and Inuit. It was offered that the Dialogue had also allowed the government to realize the priority that must be given to former residential school students, and to respect the principles that the Dialogue had developed. It was noted that the Dialogue had endured the passage of time and was an important element to consider in moving towards a resolution.

The IRSRC's Aboriginal Working Caucus, with church and AFN involvement, was introduced as a useful forum for debate. Another outcome was the launch of a series of pilot projects through which 400 resolutions had been reached, and provided realistic understanding of what could be achieved in setting the stage of the ADR program. It was offered that the recent creation of the National Residential Schools Survivors' Society was another significant milestone in helping the former residential school students to organize and to discuss how best to address the impacts on them.

It was recognized that the IRSRC had been criticized for not being broad enough in that it only addressed physical and sexual abuse. It was offered that it must take into consideration the reality of the churches and government, but was producing results through its flexibility. Delegates were informed that the ADR was an option for many that would result in compensation equivalent to what would result through the courts, and was offered that claimants had a right to choose the form of resolution that they pursued.

Deputy Minister Dion indicated that government was producing more resolutions, with 2,500 having been reached of the 13,000 who had applied under ADR to date. It was anticipated that 1,600 settlements could be reached in the coming year, a small percentage of the number of former students still living.

It was offered that ongoing discussions with the AFN indicated that much more needed to be done, and that there was a concentrated effort to build on the work that was being done. He added that the IRSRC was looking for a speedier resolution, and an outcome that would put people on the path of lasting and fair resolution. In the meantime, he offered that the IRSRC would continue to resolve claims through the ADR process and would not prejudice any former student to take advantage of the resolution as determined by Justice Iacobucci.

The Deputy Minister thanked the organizers for inviting him to speak to the Conference, and the delegates for listening to the government's perspective. The importance of recognizing what had been accomplished in the past, while looking to the future, was noted. He thanked the National Chief and the AFN for all that they had done on behalf of the former residential school students.

National Chief Fontaine presented gifts of a quill box and a blanket to Deputy Minister Dion for his support and influence, and gifts to Messrs. Sigurdson and Faulds for their presentations.

Assembly of First Nations Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools

Referencing an overhead presentation titled "Assembly of First Nations Indian Residential School Unit – Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools" (provided as Appendix 4), Bob Watts, Chief of Staff, Assembly of First Nations, provided an overview of the AFN's Indian Residential School Unit (IRSU). He discussed the Unit's report which had a central purpose of developing an appropriate dispute resolution process. Reference was made to the guiding principles that underscored the Unit's work, and an overview of the Dispute Resolution (DR) model's strengths and weaknesses was provided.

Professor Kathleen Mahoney, University of Calgary, expressed appreciation for the opportunity to present at the Conference and to work with the AFN on residential school issues. She provided an overview of

her human rights related activities during her professional career, adding that the work that she was presently involved in with residential schools in dealing with the Canadian Holocaust was the most important work that she had done to date.

Reference was made to the AFN's Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools (distributed under Tab 2 of the distributed Conference Agenda). It was noted that the AFN had prepared the Report to look at the Alternative Dispute Resolution (ADR) process and beyond to consider a holistic approach to residential schools and how reconciliation could be achieved. It was offered that the Report drove the discussions to the signing of the Political Accord, and was clarified that the Report was the AFN's position, but was not the formal settlement.

Professor Mahoney reviewed key recommendations in the Report and discussed the rationale for each, as detailed in the Report's Part I: Compensation for Residential School Abuses.

Mr. Watts discussed important benefits of the AFN Report for survivors and for Canada as a whole, including to:

- significantly reduce delay;
- expedite compensation for the sick and elderly;
- significantly reduce the costly and retraumatizing hearings;
- reduce administrative burden of the current process and redirect those monies to the hands of survivors;
- reduce anger and disappointment for those under compensated or ignored under the current process;
- achieve widespread participation by former residential school students;
- restore trust in the process which had been lost through the experiences with the current process;
- enhance public awareness of the injuries and consequences of residential schools;
- enhance the restoration of the relationships of families, community, First Nations and non-First Nations;
- enhance the potential for healing;
- ensure that those types of abuses will not happen again;
- enhance Canada's stature in terms of dealing with human rights abuses; and
- help set international standards for other countries.

Mr. Watts encouraged delegates to read the AFN's Report, and referenced repeated meetings with government and others including counsel for class action and other suits, since the Report's release. He reiterated hope that the Report would help to change things and to form a part of the reconciliation process.

THE NEW WAY FORWARD

Overview of the Political Agreement and Canada's Letter of Commitment

National Chief Phil Fontaine provided background information leading to the signing of the Political Agreement and the Letter of Commitment. He shared that it had not been an easy process, and that there had been the need for the AFN to convince a lot of people that its position – the survivors' position – was acceptable, and that what the government was suggesting was unfair and not just.

It was noted that the Deputy Prime Minister had appeared before the Standing Committee in March 2005 to reaffirm that what government was providing as the way forward for survivors was appropriate and that there was no need to change. As such, the AFN had to move the government from that position, to accept the AFN proposal as the way to move forward, and to convince them that all of this would cost more money than they were prepared to spend. He added that the initial amount set aside was $1.695 billion

with compensation (estimated at $900 million) and administration costs (estimated at $800 million) already having been determined. It had been anticipated that 18,000 survivors would claim for severe abuse claims and that the rest would be covered through the ADR and the adjudicated process.

Information was provided on the AFN's creation of a negotiating team, and Aaron Renert, the individual who had developed The Business Case used to convince the government that more people could be compensated with the same amount of money, was acknowledged. Ongoing discussions with government, churches, and others, and government's eventual direction to the Deputy Minister of IRSRC to negotiate with the AFN, were referenced. The National Chief acknowledged the Ministers of Indian Affairs, Finance, and Justice and the Deputy Prime Minister for their political support. As well, work with Conservative, Bloc Quebecois, and Liberal party members was referenced, which led to the eventual acceptance of the AFN Report as the way to move forward.

National Chief Fontaine shared his pride at having been the only Indigenous leader to attend the funeral of Pope John Paul II, at the invitation of Prime Minister Paul Martin. He shared that there were 179 heads of nation states at the funeral and that, where he stood he had England's Prime Minister Tony Blair behind him. At the dinner that evening, he spoke of the residential school issue with Canada's Prime Minister, and had noted that while education was an important priority for First Nations, the resolution of the residential school issue was important in order to instill pride in parents that education was the key to the future.

The National Chief indicated his respect for the Prime Minister for having honored the commitments that he had made to First Nations to date.

Delegates were informed that the Political Agreement and Letter of Commitment had been signed on May 30, 2005. It was noted that the Letter set out the government's commitment to resolve the residential school matter once and for all, and was seen as a binding agreement, regardless of whether there was a change in government. He shared that the AFN was moving ahead in the process, and was confident that it would lead to resolution with funding in the areas of commemoration, healing and truth telling with the biggest percentage of the settlement being for the lump sum payments.

Hope was expressed that First Nations would move on from the agreement, reinvigorated as a community and confident that they mattered as a people. He shared that it was all about the survivors, whose average age was 57, and who were dying at an average of five per day. It was noted that there would be a push to pay the people who were deceased, with there being a need to be reasonable and strategic about that. It was shared that 150,000 First Nations attended industrial schools, boarding schools and residential schools, and that different scenarios were being contemplated to pay those who had passed on.

Bob Watts, AFN Chief of Staff, referenced a letter received from the Prime Minister that was received on May 30, 2005 (provided under Tab 7 of the distributed Conference Agenda package). He expressed appreciation to Elder Elmer Courchene for his support in grounding everyone throughout the process and for assisting them in setting their feet along the path again.

Mr. Watts led the delegates in a review of each of the whereas clauses of the Political Agreement between Canada and the Assembly of First Nations (provided under Tab 7 of the distributed Conference Agenda package).

Professor Kathleen Mahoney indicated that the critical part of the Agreement was the seven items that Canada and the AFN had agreed to, noting that the AFN Report was referenced in several of the clauses as the foundation for any settlement. Professor Mahoney offered the following in regard to each paragraph:

1. "key and central way" guaranteed that no settlement would be reached without the involvement of the AFN; "working together" was a recognition of the AFN in a government-to-government relationship as the political entity that Canada was going to work with;

2. "just and fair resolution" are words taken directly from the AFN Report;

3. references a "broad" not "narrow" reconciliation agreement; and includes "along the lines of the AFN Report" which called for a lump sum payment to all survivors of residential schools;

4. indicates commitment on a going basis to restrict legal fees in a settlement package;

5. "flexibility" and "key and central role" are additional references from the AFN Report;

6. "will ensure" are strong words; the interpretation is that there is enough money to justify some pre-payment to be made even prior to the settlement being finalized;

7. puts the AFN between the government and anyone else that they would be talking to; ensures that there will be no settlement unless the AFN is in agreement with it which means that the survivors will be front and centre; "work and consult" is an additional obligation over and above the duty to negotiate; the ADR will continue but part of the package is to change the process to be more efficient and more suitable for the claimants and more expeditious.

Professor Mahoney indicated that the Agreement reflected a government to government relationship, as evidenced by the signatories to the Agreement.

The Business Case

Referencing an overhead presentation titled "The Business Case" (provided as Appendix 5), Aaron Renert discussed his analysis of government's work. His finding was shared that the Office of the Indian Residential Schools Resolution Canada (IRSRC) had been very wasteful in the first two years of its existence with very high costs of administration – averaging $4 in administrative costs for every $1 in compensation. It was offered that the administrative costs were so high because of the hearing process and the costs of flying adjudicators to various locations.

In further regard to the administrative process, Mr. Renert offered that it would take 25 to 57 years to resolve the 14,000 claims that had been filed to date, anticipating that there were 24-25,000 cases that needed to go through the process at the rate of 400 people per year. The intent to instead expedite the process in no more than five years, with the vast majority of claims being resolved in two years was noted.

Mr. Renert discussed the AFN's lump sum recommendation for $10,000 per survivor for all survivors and $3,000 per year for every year of attendance for all survivors, which meant the average person would receive $28,000. In addition, he noted that claimants for severe sexual, physical and psychological abuse could expect to receive an average of $100,000 through the ADR process, with hearings being used only as a last resort.

Mr. Renert discussed the Model B and Model A compensation, offering that compensation would be included for all of the people who were alive on May 30, 2005 but that the AFN was pushing for compensation for those who were deceased prior to that time, to 1991, 1996 or 1998 – to be negotiated. A chart was displayed illustrating that the cost of administration would drop to 0.24 to 0.48 cents to administer every dollar of compensation.

In response to the question of "Is this a good agreement?", Mr. Renert displayed two photos one of the National Chief several months prior looking grave, and a more recent photo in which he smiled widely. He invited delegates to judge the Agreement themselves.

Mr. Renert acknowledged the members of the negotiating team for their efforts, and recognized the National Chief for his work on behalf of First Nations peoples. He recalled John Faulds' comments that the National Chief had succeeded in moving mountains in a matter of months, and recalled the government's initial response four months prior to leave the meeting whenever "lump sum" was discussed. He acknowledged the National Chief for bringing about that significant change in the government's position.

National Chief Fontaine led the delegates in applauding the presenters.

DISCUSSION PERIOD

National Chief Fontaine invited delegates' questions and comments in relation to presentations that had been received thus far at the Conference. (While a narrative summary of the delegates' comments and questions and panelists' responses during Day One's Discussion Period is provided in Appendix 6, an overview of delegates' points and issues, and panelist's clarifying information follows below.)

Some of the points, issues and questions identified by delegates during the discussion period included:

- Some survivors may not be well enough or stable enough to handle the lump sum payment responsibly and will need counseling or someone to act for them in their best interests.
- Consideration needs to be given to compensating people for the suffering that they still face today as a result of the abuses that they went through.
- How does this process affect those survivors who are in the treaty process? Are they to be excluded? Are disabilities considered in this process? Do we have an appeal process if things don't go the way we wish?
- Those who don't choose this process should not be forgotten.
- A Task Force of Aboriginal Survivors needs to be established to assist in these decision making processes.
- Survivors have been taxed with GST and PST on the settlements that they received. Is there a way for the AFN to lobby to have those taxes removed from the settlements and to reimburse those who have already paid the taxes?
- There is a new Catholic Pope. The AFN should pressure the Catholic Church into settling up the 30% that they owe to those survivors who have another 30% coming to them.
- If you take that money that is being offered and consider the time since leaving school, in some cases you're getting $160/year for your suffering, or $17/month.

In response to delegates' questions and comments, some of the Panelists' clarifying points included:

- The AFN report addresses the need for healing, counseling and community based programs, and seeks an additional, separate amount of money for counseling support for those who have demonstrated need.
- Trust arrangements or other recognized mechanisms could be considered for those who do not have the ability to manage their affairs.
- The AFN recommendation is to redefine abuse to include physical, sexual and emotional abuse and to not separate those out from one another; people would receive a lump sum for their attendance and could then make a claim for additional compensation based on their personal circumstances.
- If an individual attended residential school for a year or for any portion thereof, they would qualify for the lump sum payment of $10,000.

- The AFN position is that the lump sum payment should be applied back in time for deceased survivors but the point in time has yet to be negotiated (in order to remove the perception that the government is delaying to save money).
- The AFN has suggested a one page form for the lump sum claim and a six page form for more severe abuse claims.
- Whenever a person receives a settlement they are expected to sign a release. The government will require people to sign releases on any compensation. The releases to date have only been for sexual and physical abuse. No one has signed away for loss of languages and cultures.
- The lump sum is for loss of languages and cultures, loss of family and for the residential school experience itself.
- No one will be forced to accept the settlement package, which is entirely voluntary.
- The Mennonites in northern Ontario and those students who started in residential school and were then hospitalized for long periods will also be included in the settlement package.
- There are active discussions with Catholic Church entities that are part of the settlement process. A resolution relating to the 30% outstanding is anticipated soon.
- The need to look at the injuries and the consequences of abuses through a gender sensitive lens is recognized.
- Options for payment of legal counsels' fees are being explored.
- The AFN has recommended that it be a requirement for the adjudicators to have specific training and knowledge of child abuse and the suppressed memory syndrome.
- The $10,000, plus $3,000, plus $3,000 is based on the only precedent in Canada which was the Japanese redress for what they faced under the *War Measures Act.*
- With respect to loss of cultures and whether a precedent would be set by the $10,000 lump sum, settlements and court cases are different things. Cases are not affected by settlements out of court. No court in Canada has yet recognized any claim for loss of languages and cultures.
- For the elderly particularly – if you are making a more serious claim, get a written or taped statement taken before a Commissioner for Oaths in order to preserve your story so that the statement would be validated for a more serious claim. The serious claim would take longer to go through the process.
- The lump sum takes into consideration forced labour and the inadequate education given.
- The AFN addressed the point of the location of abuses – noting that there should be no difference whether it occurred in or outside of a school. The AFN recommendation is for a no fault approach.

ADJOURNMENT

The Assembly of First Nations – National Residential School Conference held July 19-21, 2005, adjourned on Day One at 5:32 p.m.

Day Two – July 20, 2005

OPENING CEREMONIES

Chief Eleanor Randall offered a Song and Opening Prayer.

PRESENTATIONS

Truth Telling Circle Proposal

David MacDonald, United Church of Canada, introduced an overhead presentation titled "Truth-Sharing, Healing and Reconciliation (THR) National Truth Telling Process" (provided as Appendix 7).

Mr. MacDonald discussed the Royal Commission on Aboriginal Peoples (RCAP) Report findings that there needed to be a full national inquiry on the impact of residential schools. He shared that the United Church had been challenged by the Aboriginal Healing Foundation and others to come forward in demanding that public inquiry.

Chief Bobby Joseph, B.C. Residential School Survivors Society, recognized delegates' caring for the work that had been done, and for the goals that they shared, and acknowledged that individuals had the willingness to work together to come to resolution of the residential schools legacy. He shared that the survivors and all Aboriginal Peoples were striving towards the goal of healing, and encouraged people to keep their eye on that "moment for the ages" when all would be free from the issue of residential schools, and could release the pain, hurt, shame, loneliness and abandonment and move forward in healing.

Referencing the 87,500 survivors still living, Chief Joseph recognized that they were all unique and different, but yet together were the same. He offered that the way out of the suffering was together and that this was why a truth-telling commission was required, which would reach out to all Canadians so that they could learn about the history that they had inherited. Chief Joseph suggested that this was the moment to begin the journey of healing and reconciliation together, and encouraged everyone to think about the higher purpose for all to strive towards so that all First Nations children would never go through the things that the survivors had gone through.

Mr. MacDonald referred to a slide titled "Truth-Sharing, Healing and Reconciliation: Participants" providing information on those who had participated in a roundtable process during the prior two years. From this, he noted that a Steering Group chaired by Chief Joseph had been established, which was supportive of beginning the process so that those who suffered from the impact and all those who wanted to understand what had happened and to prevent it from happening again could participate. He offered that the time was right for the truth-telling commission on healing and reconciliation.

It was noted that the THR was envisioned to be at least a five year process. Delegates were encouraged to speak about what could be done at a community level and at a national level. The May 26 National Day of Healing and Reconciliation was recognized as one initiative, but the need for more and varied options, to create paths of people being able to walk together, was noted.

Chief Joseph continued the review of the goals of the THR process, noted within the presentation as follows:

- survivors, their families, communities and nations need recognition, apology, reparation, healing, closure and reconciliation;

- Canadians need to understand and become reconciled to the true impact of colonialism and support a just public response;
- Church members need to understand, respond and contribute to the healing and restoration of right relations;
- significant and life changing experiences can result from communities engaging with themselves or with neighboring communities, on the impacts of residential schools;
- there is a need to have a full public accounting of the purpose, experience and impact of Indian, Inuit and Métis Residential and Boarding Schools; elected officials and public servants need to contribute to a just and satisfactory outcome;
- the media need to provide information and resources necessary for a full public understanding of this legacy;
- to develop, implement and document a community-based initiative across the country which will utilize a variety of regionally and culturally appropriate, survivor-sensitive mechanisms to allow and encourage those most affected by the residential and boarding school experience, to tell their story in a context that ensures safety, promotes respect and enables healing; and
- to utilize the profile of a national initiative to educate all Canadians to the reality, purpose and impact of the schools.

Mr. MacDonald continued the presentation with a review of the achievements to date, including the development of a process framework, a common Statement of Purpose, a budget for the first year, a fundraising strategy and a job description and posting for the start-up director. As well, it was anticipated that the first pilot project leading to the THR process would soon be announced.

Chief Joseph discussed Post-Inquiry activities, offering that the Truth Telling Commission would be a community-based, community-driven inquiry. As such, he referenced the need for delegates to be engaged and involved so that every one of the 87,500 survivors and their families would have an opportunity to tell the world about their experiences, in order to truly achieve the "moment for the ages".

The need to also establish a continuing education initiative, ongoing activities and a national cenotaph was mentioned. Chief Joseph spoke of the importance of focusing on the question of "when" and the pursuit of the "moment for the ages", offering that not one person who was consumed by this issue wanted to pass it on to another generation. He encouraged delegates to "stop it here" and to work hard to achieve that "moment for the ages".

National Chief Fontaine thanked Mr. MacDonald and Chief Joseph for their presentations.

Reconciliation Lessons Learned from Other Countries

Professor Jennifer Llewellyn thanked the National Chief and organizers for inviting her to speak at the Conference, offering that it was humbling to address an audience that knew so well the challenges of reconciliation. She hoped to offer some insights from her past experiences with the work of reconciliation, which included her work as a Professor and with the AFN Task Group on the ADR process, the South African Truth Commission, and other initiatives.

Professor Llewellyn discussed the importance of being clear at the outset of what was meant by reconciliation, in order to choose the right types of processes, and so that there were not different expectations of what the outcomes of the process would be. She offered that reconciliation was not "hugging and making up and being friends" but that it was to ensure that the individuals involved lived in equality with one another in society. It was added that this was the kind of reconciliation that could only come in relationships based on equal care, concern, respect and dignity. She offered that processes needed to be aimed at creating that foundation for future relationships.

Professor Llewellyn recognized that there was no blueprint for the reconciliation journey or the process, noted that the people involved were the only ones who could develop a process, and noted that difficulties arose in other countries when processes were applied by well meaning outsiders. As such, the need for reconciliation to be context driven as a fundamental starting point for designing or implementing any processes was emphasized. Professor Llewellyn indicated that she would offer some of her insights on lessons learned in other reconciliation processes, but stressed the need for other groups to resist adopting those models as their own.

In order to achieve reconciliation, Professor Llewellyn discussed the need for attention to the nature of the relationships, the wrongs that were done, and the nature and full extent of the harms suffered by all those involved. It was suggested that individuals could hope to address the harms, meet the needs of the parties, and be useful for determining what was needed for reconciliation.

Collective insights on some of the experiences of others including Latin America, South Africa, Ireland and Australia that had sought to respond to their own human rights abuses through reconciliation processes, were shared including:

- development of trust and building of relationships of equal respect and dignity requires many steps and processes and a long lasting commitment to continue to travel the road together into the future;
- the purpose of any processes such as a truth commission, healing programs, etc. is to contribute in financial and symbolic ways and to create the foundation for reconciliation;
- truth paves the way to reconciliation:
  - truth is only one of the steps along the road to reconciliation; a holistic approach is needed;
  - truth required for reconciliation is not just factual, it's important for the sake of reconciliation to create space for relational truth which can only be understood by listening to the stories of those involved from their perspectives in order to gain a complete understanding of what happened;
  - telling the truth is not enough; the truth needs to be heard and listened to by the public in a way that is sensitive to and offers support to the survivors;
  - careful attention needs to be given to the way in which the public participates in the process, i.e. making allowances for members of the public to testify, and public broadcasts of portions of the truth telling process through radio and television;
  - truth telling needs to contribute to justice mechanisms;
- justice is a key part on the road to reconciliation:
  - once we know who was responsible and the resulting harms, something must be done in response – we need to ask what ought to be done to make reparation for these harms, to make reconciliation possible; the answers lie only in the stories, truths and experiences of those involved and we need to create space to hear those truths;
- reparation:
  - must be made at the individual level, i.e. the AFN lump sum and ADR processes or litigation paths, are all aimed at that kind of individual reparation;
  - reparation must also address harms to survivors' families, the next generation and communities;
  - reconciliation requires that those responsible for the harms be involved in the process of actively figuring out how to repair that harm or make and participate in reparations;
  - it is important to commit to reparations at the outset of any truth and reconciliation process (learned from the South Africa Commission which left the issue of reparation to the good will of parliament) either by committing funds in trust or through a political/legislative commitment to follow through;
  - key to ensuring the commitment to outcomes is the way in which the process is designed, planned and implemented; it is important to involve all those concerned in the development

of the process in order for them to be committed to the process and its outcomes; once there is agreement in principle the key to success is in the details and how they are settled and by whom;

- there should be a national unified process, and not several truth telling processes:
  - for the sake of clarity and so that stories do not become lost between processes or have to be repeated through different processes;
  - community processes are the lifeblood for understanding truth and repairing harm but there needs to be an overarching framework to seek truths through a national approach;
  - some issues can only be dealt with at a national perspective in order to determine the patterns and the systemic approach;
  - a national level process ensures adequate reparations and enables the ability to address the broad harms of the relationships between Aboriginal and non-Aboriginal people;
  - this would enable the truth to be heard and listened to across the nation thereby weaving it into the fabric of the collective history of Canada; and
  - space will be created to imagine a common collective future founded on new relationships of equality with one another.

Professor Llewellyn offered that the Political Agreement represented a first step on a long road to reconciliation. She added that whatever process was reached it needed to be one in which responsibility for and power over the journey was shared. It was emphasized that the government needed to be involved in the process' design, implementation, truth and reconciliation and reparation, etc. in order to be true partners and to set the stage for future relationships. She looked forward to hearing from delegates' on the concept of reconciliation during the Conference.

Apology and Commemoration

Art Miki, Manitoba and Saskatchewan Citizenship Judge, spoke of his attendance at a prior Conference in Calgary, which had focused on the ADR process. He discussed the Japanese community having sought recognition for the treatment that it had received from the government in World War II and following, offering that it had been important for every victim to be given the opportunity to say that they were hurt and damaged and that their lives were affected. Their need for a response from the government and the churches that were involved was acknowledged.

Judge Miki spoke of the concept of the sharing of power noting that it was crucial in the process of reconciliation. In the case of the Japanese, he shared that their emphasis was that they should be part of the true negotiation process in order that they could accept or reject what was being put forward. Another important part was for the Japanese community leaders to be in the forefront, as the public face, noting that Canadians wanted to see that the community was involved, not that it was a legal process between lawyers. Judge Miki offered "we [the Japanese] know what is best for ourselves, and you do too".

Judge Miki noted that the Japanese had also dealt with the issue of individual compensation. It had been recognized that all Japanese-Canadian community members had lost their basic rights through the imposition of the *War Measures Act*. As such, they opted to seek a symbolic redress of the same payment for everyone, in recognition of the extent that the community had suffered, without differentiating between those who had suffered more than others. While some Japanese had lost businesses, their houses and/or employment, the common element was the loss of their basis rights, including the inability to own property or to move freely.

Delegates were informed that the Japanese had agreed that the concept of monetary compensation was required because without it, an apology was hollow. On the issue of the apology itself, Judge Miki indicated that the Japanese had been most interested in the government's admission that it had committed a wrong and that what had happened to their community was the fault of the government and not the fault

of the community or individuals. In the end, the Japanese received both the acknowledgement and the apology.

It was noted that components that the Japanese had achieved included individual redress, community redress, redress for those who lost their citizenship, redress for those who were charged and jailed for violating the *War Measures Act,* and funding for the creation of a race relations foundation for the country. With regard to the individual redress, it was offered that the U.S. precedent of $20,000 per person was used as a basis, with income tax not being applied to the payments. As well, provincial governments provided letters to indicate that the Japanese members' receipt of the payments would not be used as a basis for the provinces to deny people access to other social services.

The Japanese negotiated that all of the community members who were alive and affected directly by the *War Measures Act*, who could not move freely in Canada until April 1, 1949, would be eligible for the redress payment. The day that the contract was signed (September 22, 1988) by the Prime Minister with an announcement in the House of Commons determined the day that the Japanese were eligible to receive the payment. The onus was on the individual to make an application and the Agreement included a five year time limit for people to apply for their individual payment.

Judge Miki spoke of sharing responsibilities, and discussed the role of the Japanese Canadian Redress Secretariat in processing applications that were received. The Japanese were also involved in drafting the application form for individual payment to ensure that it was easy to complete. In Japanese communities, he noted that community offices had been set up which distributed forms, provided advice, held meetings, arranged notarization, and sought out people who were eligible but could not come forward – the ill and elderly – and helped them with their applications. As well, those who were seriously ill, infirm and/or elderly had their applications processed in priority.

It was noted that, when community members had received their individual redress payments, they had been accompanied by an apology letter as well as a copy of the acknowledgement of the government's fault.

In regard to commemoration, Judge Miki noted that there were many ways to recognize that this had taken place, including a fund to help revitalize the Japanese Canadian community and to bring it together. Judge Miki offered that coming together was a form of redress or healing in which participants could share their past experiences. It was noted that the fund had allowed for community capital projects including the creation of three Japanese retirement homes, and 14 community centres in Canada. As well, the fund devoted monies for programs which led to the creation of films and books by Japanese writers, the formation of cultural groups, and human rights activities.

Judge Miki advised that the fund had imposed upon it a five-year time limit to spend $12 million. However, the length of time taken to set up the foundation, to appoint a Board, and to develop a processes for applications led to the need for an extension to 12 years before the foundation was able to close. At that time there was reluctance on the part of the government to give endowments. Judge Miki shared the story of his receipt of the $12 million cheque on behalf of the community fund.

In commemoration for those who had passed away but who went through the experience the Japanese opted to develop the Canadian Race Relations Foundation as its legacy. The Foundation has a $24 million endowment, half provided by the Japanese and half provided by the government with the Foundation doing activities to support all races, including the Aboriginal peoples of Canada.

Judge Miki shared that the government's acknowledgement had led people to finally feel as though they were a Canadian, rather than second class citizens. He offered that gatherings, monetary compensation and acknowledgement of wrong doing were all part of redress. It was reiterated that redress was necessary

in order for peoples to feel a part of the society, and hope was expressed that the First Nations of Canada would achieve that.

DISCUSSION PERIOD

National Chief Fontaine indicated that, given the demonstrated interest of delegates at the Discussion Group the prior day, plenary session discussion would continue at this point. Ted Quewezance was introduced and chaired the Discussion Period that ensued.

(While a narrative summary of the delegates' comments and questions and panelists' responses during the morning and afternoon of Day Two's Plenary Discussion Periods is provided in Appendix 8, an overview of delegates' points and issues and panelists' clarifying information follows below.)

During the discussion period, Elder Peter Kelly offered that any session dealing with residential schools was reliving the past and the trauma. He noted that the ancestors were with the delegates, and invited any who were interested to participate in a Sunrise Ceremony the following morning at 6:30 a.m.

Some of the points, issues and questions identified by delegates during the discussion period included:

- If you can forgive you will find that you can get on with life.
- How will we get the truth out to the public so that they have the truth? Where's my guarantee that the media will tell the truth word for word – not omitting anything? That's the only way that the public will truly understand and will give their support for all of this to happen.
- Some Elders should receive more for the pain that they had to suffer for a longer period of time because of their ages.
- "If I was abused for one day I was abused for a life time."
- The government and the churches should be paying the lawyers' fees for me and for everyone else who is going through litigation.
- The $10,000 should be compensation for the fact that we went to residential school only.
- We need funding from the government to teach our children our languages – it's the basis of our cultures.
- We were used for testing memory loss, TB and other diseases. How can you prove what you don't remember? Is the government willing to commit themselves to say what schools they used drugs on?
- Some saw sexual abuse of other students – how is that recognized as part of the compensation?
- In our community we had funding for crisis management, but two years isn't enough. When people start to disclose, it's a lifetime process.
- Why were the main perpetrators of this system – England and the Queen – not mentioned in this process? Will you make sure the Queen, the Chief Justice of the Privy Council, the Prime Minister, the Governor General and the Commissioner of the RCMP offer an apology? All of them are responsible and need to answer collectively.
- I haven't read in the Bible that I was evil. Will Church people be held accountable for misrepresenting the Bible? A great crime was done in that area of twisting the truth alone.
- We should be able to see the faces of our perpetrators because they can see ours.
- The public needs to be educated to understand what we go through.
- My recommendation is to get the money and send it directly to the people.
- By accepting the package, am I doing something to harm the eligibility of future generations' who are suffering the effects of residential school?
- Is there any compensation for those of us who were not registered in residential school, but suffered the ramifications of residential school?
- Is the AFN considering investigating the issue of missing women?

- Canada and corporations make billions of dollars daily raping our resources. This is an insult to Canada and our People. And we want to settle for $10,000? What a farce.
- Let's build a case together that is strong, not rush a "drive-through settlement". Walk away from this deal and make a deal you can live with. First and foremost, BC is not for sale. Breach this deal.
- The sick and elderly should be considered first.
- Is there anybody from the disabilities community on your team? You talk about the truth sessions, is there anyone there from the disabilities community in these sessions? I think that's missing from the objectives here. One third of Aboriginal people in Canada have a disability and this is not being addressed.
- Instead of giving money, why not give to educational programs to teach about what happened to my parents and grandparents? I didn't know what was going on.
- The immediate needs of the Elders need to be met, including housing, health, emergency response, doctors, dentists, transportation, and housekeeping support. There is also a lot of loneliness and despair. The elderly sometimes just need someone to visit and be part of their lives. The AFN should lobby for funds specifically for Aboriginal Elders.
- The $10,000 and $3,000 per year lump sum does not compensate for the eight years I was in jail.
- How does $1.43 million look? I think it is quite measly. The AFN should modify its position and have a new starting point to negotiate from.
- We need to ensure the government or other organizations will provide information about the perpetrators.
- If you want to know how far to go back then go back as far as when the residential school started.
- All I'm concerned about is the future generations and ensuring that my daughters don't pass this on to their future kids. You can't measure these things.
- In regard to forgiving the people who hurt us, I can't focus on that because I'm trying to focus on forgiving myself for what I did to my daughters, my mother, and my friends.
- The residential school survivors with disabilities should be looked after first.

Some of the clarifying points offered by Panelists during the discussion period included:

- The AFN Report speaks to any awards not being taxable or deductible from any other source of funding whether it is social assistance, disability pension, etc. So far, the Government of Manitoba has agreed not to claw back any awards to former residential school students. Over the next several months the National Chief will meet with other premiers to urge them and the federal government to follow Manitoba's lead.
- The ADR process needs to be streamlined but also needs to be made friendly and non-threatening for survivors – from the form to providing a supportive forum for the training of the adjudicators to listen to the stories and to allow those stories to be told in a way that is non-threatening and non-aggressive.
- The lump sum payment is separate and apart from any other court action that had already concluded.
- There were collective harms to communities, languages, and the next generations and we need to think about collective compensation for those.
- The AFN has recommended in its Report to ensure that funding for the Aboriginal Healing Foundation (AHF) is continued. Last year would have been its last year but the AHF Chair and others worked hard to ensure its continuation. We've put this issue into the agreement with the federal government, noting the need for local community supports that are accessible funded by the federal government.
- The current ADR process puts more emphasis on the thing that happened than on the consequences. The AFN recommendation is to flip that so that what really matters is the consequences.

- During the negotiation period the intent is to make sure that people who are elderly or ill are first in line and are dealt with first.
- The Band school issue also needs to be looked at because it has affected many people and is still happening.
- The international community does intervene by requiring Canada to produce a report each year on how they have kept up with international law. There are questions around Canada's report, but there is no clear signal of dishounorable behaviour by Canada with regard to First Nations.
- Being a student at residential school includes any time spent in the hospital while registered at the residential school. From our point of view it is still considered time spent at the residential school.
- With regard to second generation and immediate family claims, we still need to settle the breadth of compensation in this regard. Second generation and immediate family issues will be addressed through further negotiations.
- The federal government is working with different groups to support missing women. The Native Women's Association of Canada received $5 million to help the missing women's cause.
- Each person will get the lump sum all at once: the $10,000 lump sum plus $3,000 for each year. There would be no monthly or yearly pay out.
- There is no representation specific to the First Nations disability community but this will be put on the table.
- Compensation payments related to issues around land and resource claims are ongoing and are still outstanding. The two are not connected, but what we are doing here does not disentitle you to pursue those other claims.
- The package that we have proposed is for residential school students. The compensation package is meant to go forward regardless of status. We are working with organizations with respect to this. There is case law out there that looks at children who were disenfranchised by parents and for things they might have received as status Indians.
- One of the recommendations is that the government should divulge information that is within their control.
- Once negotiations are complete we will have an idea of how far back compensation will be provided for. The recommendation is that the compensation would be provided to the individual's family if they are already deceased. The question is how to determine how far back they will accommodate those who are now deceased. The AFN position is to go back as far back as possible.

BREAKOUT SESSIONS

Conference participants then divided into separate breakout sessions groups, each of which focused on one of the following topics:

1. Priority Payment for the Sick and Elderly
2. The Apology
3. Truth, Reconciliation and Commemoration

As well, a French Session was convened at which participants considered the same three topic areas. (Notes of the breakout sessions, captured by AFN and Aboriginal Healing Foundation staff volunteers, have been compiled and provided in Appendix 9.)

ADJOURNMENT

The Assembly of First Nations – National Residential School Conference held July 19-21, 2005, adjourned on Day Two at 5:32 p.m.

Day Three – July 21, 2005

OPENING CEREMONY

Elder Audrey Rivers provided an Opening Prayer. A Drum Song was offered.

OVERVIEW OF DELEGATES' FEEDBACK

National Chief Fontaine indicated that an overview of the delegates' feedback provided during the Plenary Discussion Periods and at the four breakout sessions during the Conference would be provided. He noted that feedback would be taken under advisement in the AFN's continued negotiations towards a final settlement for the survivors.

The National Chief offered that it had been a very good gathering, recognizing that it had been critically important to bring together First Nations to discuss the Political Agreement and the Letter of Commitment. He shared that, at the time a decision was made to convene the Conference in order to share information with the survivors, it had been anticipated that 500 delegates would be an outstanding success. However, he acknowledged that there had been 1,400 registered delegates, and a great number of unregistered guests in attendance. He recognized people for sharing their stories during the Conference and noted his admiration for the courage of the people who had done so.

Professor Kathleen Mahoney provided an overview of issues that delegates had identified at the Conference and noted that next steps would be undertaken in the following areas:

Guidance for Dealing with Legal Counsel
It was noted that a key issue identified during the Conference was related to survivors' concerns in dealing with legal counsel, including the calculation of fees and determining the fairness of fees. Professor Mahoney offered that in response, the AFN would prepare a pamphlet offering guidance for dealing with legal counsel.

Clarification of the Minimum Lump Sum Payment for Survivors
It was identified that there was a lack of clarity regarding the purpose of the lump sum payment that the Political Agreement had assured would be available to all survivors. In response, Professor Mahoney clarified that the lump sum payment was not for physical and sexual abuses endured, but was for the other kinds of harm that survivors experienced in residential schools, including their loss of language and culture, loss of family life, inferior education, subordination, discrimination, etc. She added that survivors who had already received a settlement would still qualify for the lump sum payment. While the exact amount of the lump sum payment had not been determined, the AFN's position was that at a minimum each survivor should receive $10,000, plus $3,000 for every year that they attended.

Addressing Taxation and Claw-back Concerns
Concerns had been expressed by delegates that settlement amounts would be clawed back through survivors having to pay GST to lawyers, or by having the government reducing survivors' access to other social assistance programs or Employment Insurance benefits. Professor Mahoney clarified that the AFN was working to ensure that there would be no claw backs to benefits, and that the concerns around the GST applied to fees would require further negotiations.

Clarification of How the Lump Sum Would Apply for Those who Passed On
Many questions were raised at the Conference in regard to whether or not survivors who had passed on would receive a lump sum payment. Professor Mahoney indicated that the AFN was suggesting that there needed to be some acknowledgement of the deceased because Canada had delayed in settling the claims. It was noted that Canada had to convince the people that they had not deliberately delayed settling in order to pay less money, as more survivors passed on. In order to do that, it was suggested that Canada needed to be willing to compensate to some degree for people who had passed on. It was confirmed that every survivor who was living at the time that the Agreement was signed would receive the lump sum payment.

Good Faith Payments to Sick and the Elderly
Delegates agreed that it was important for there to be priority payments made to the sick and the elderly. Professor Mahoney spoke of the importance of the negotiators achieving certainty so that government could not change its position. As such, the AFN was working to have payments made as soon as possible to the sick and the elderly so that government would be committed to a payment scheme, and could not back out. It was acknowledged that the delegates had provided feedback as to how to define the sick and elderly, and were assured that the payment start date was being negotiated.

Referencing a displayed overhead presentation beginning with a slide titled "Some Points Where Greater Clarity is Needed" (provided as Appendix 10), Professor Mahoney together with Bob Watts, AFN Chief of Staff, reviewed key points provided by presenters during the Conference, noted on slides titled:

- Historical Overview;
- AFN Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools – November 2004;
- The Political Agreement and Canada's Letter of Commitment signed on May 30, 2005;
- AFN Business Case;
- Truth Telling Circle Proposal; and
- Reconciliation – Lessons Learned from Other Countries.

In regard to the presentation of the AFN's Business Plan earlier in the Conference, Professor Mahoney indicated that there had been a good relationship with the federal government in the negotiations leading up to the Letter of Agreement, and that although the federal representatives did not have a mandate to negotiate a lump sum payment, they did stay in the room when the issue had been raised.

Mr. Watts also reviewed potential next steps which were introduced as follows:

- Database Collection: Delegates were encouraged to submit their completed database forms (provided as Appendix 11), and were encouraged to ensure that survivors in their communities also submitting their completed forms in order to ensure that they were a part of the AFN's database.
- Communications Strategy: Reference was made to the AFN's plans for regular updates to survivors via website postings and monthly newsletters to Survivor Database Members.
- Additional Regional Conferences: The AFN's plans to convene future regional conferences were referenced.
- Ongoing Plans and Discussions with Focus Groups: It was noted that there were ongoing plans for discussions to further determine how to proceed with Truth Telling Processes, and Healing and Commemoration initiatives.
- Conference Proceedings: Delegates were advised that a more in depth conference summary would be provided, potentially including verbatim transcripts of the plenary sessions.

- Justice Iacobucci's Commission: Delegates were informed that Justice Iacobucci's Commission was ongoing. The need for people to be continually updated on the Commission, as the process continued was acknowledged.

Aaron Renert introduced an overhead presentation titled "Summary of Breakout Sessions" providing an overview of the feedback received in the breakout sessions and during the plenary discussion periods (provided as Appendix 12). Key points raised have been categorized in the subject headings of the breakout sessions.

PRIORITY PAYMENTS FOR THE SICK AND THE ELDERLY

Principle Concept:

- The sick and elderly should be given priority in receiving compensation. While there was consensus that the sick and the elderly should be compensated first, there were varying views regarding how these should be defined.

Factors identified for consideration in defining "elderly" included:

- the age should be set as low as possible so the most of the survivors can be compensated right away; some suggested 50 years of age while others suggested the pension age;
- there could be a staged approach beginning with the oldest and working back (e.g., 85+ and then compensate 80-85, etc.);
- the average age of survivors could be used to determine the age range for the elderly; and
- definition should be based on the life expectancy of First Nations.

Factors identified for consideration in defining "sick" included:

- "the bar should be set as low as possible" so the ill claimants can access compensation sooner rather than later;
- it is difficult to determine "sick" because many people have health problems, disabilities, etc.;
- a doctor's opinion should be obtained as soon as possible and should be used as the standard;
- people with physical disabilities should also be considered;
- incurable deadly diseases should be included such as AIDS, Diabetes, Cancer, and Hepatitis;
- a person's quality of life should be taken into consideration; and
- psychological/mental illnesses should also be considered.

Mr. Watts continued the presentation with an overview of the breakout sessions on The Apology, and on Truth, Reconciliation and Healing.

THE APOLOGY

Principle Concept:

- A real settlement of the residential schools legacy requires a true and significant apology.

Elements identified by delegates as being necessary in a true and significant apology included:

- clear admission and acknowledgement of harms done (including the ongoing and intergenerational consequences) by all parties involved (including different levels of government and churches);
- directed at former students, their children and grandchildren;
- made in good faith;
- it must be public and unequivocal;

- include assurance that this will never happen again;
- followed by action to restore and revitalize First Nations cultures and nations, including the return of lands, resources and rights;
- lead to a changed relationship that respects First Nations treaties and acknowledges First Nations rights;
- followed up with action and resources necessary to "break the cycle";
- be directed to individuals, communities and nations, including an acknowledgement to former students who are deceased;
- include funding for community based healing programs and support for cultures and languages;
- should take place in Parliament with a written apology delivered by the Prime Minister and the heads of churches that recognizes the harm and abuses done to First Nations through the residential schools;
- survivors should be present and the apology should be followed by a ceremony;
- each community should receive a personalized apology;
- government needs to acknowledge that nothing can compensate for the cultural genocide that took place, and that these actions constituted a "crime against humanity";
- determine who would accept/reject the apology on behalf of former students; and
- an apology is not the answer, but is a first and necessary step on the road to reconciliation.

TRUTH, RECONCILIATION AND COMMEMORATION

Principle Concept:

- A two-pronged approach should be taken in developing a more effective reconciliation and compensation process. One prong focuses on "fair and just compensation" and the second prong focuses on "truth-telling, healing and reconciliation".

Elements identified for consideration in truth, reconciliation and commemoration included:

- must begin in the families, then the community, then regional and national levels;
- French-speaking First Nations need to be heard in their language;
- develop a curriculum to be integrated into schools to teach students about the history of residential schools and to increase public awareness;
- commemorative suggestions included: monuments where each residential schools stood with the students' names recorded on a plaque; national ceremonies; commemorative stamps; and an annual day dedicated to this "event" with monies available for different commemorative activities to take place.

National Chief Fontaine thanked the presenters for their overview of the Conference presentations and of delegates' feedback.

CLOSING REMARKS AND NEXT STEPS

National Chief Fontaine spoke of the presence of many survivors at the Conference having made it so successful and acknowledged those who had supported and given the Conference the attention and exposure that it had received. As well, he thanked the presenters who had provided the delegates with good information and valuable insights that had been most helpful in their discussions. Acknowledgement of the Regional and Grand Chiefs, Commissioners and elected leaders who were in attendance at the Conference was offered, and Conference staff and organizers were thanked for their contributions.

National Chief Fontaine accorded special acknowledgement to Willie Blackwater for his personal role in the *Barney* case, which was of great significance to First Nations.

The National Chief spoke of the uniqueness of First Nations and how their uniqueness made Canada better. He commented on how the First Nations people did things differently, indicating that this was evidenced during plenary discussion periods where incredible stories of the survivors were being told while a drummer was drumming outside the door. He added that smudging was being done, and counseling was being offered at different locations at the Conference.

Comments were offered on the changes that had taken place since the election of the National Chief, at which time the issue of the residential school experience was no longer a priority with there being no talk of: a lump sum; an apology; a truth commission; changes to the ADR process; or a Political Agreement; and the Aboriginal Healing Foundation was to be concluded. He added that it was known at that time that survivors were suffering and it seemed that they would be left to suffer for years, with the courts being their only avenue.

National Chief Fontaine offered that First Nations people should never be fooled to think that the courts were their best ally, because they hadn't been, as was evidenced in the Supreme Court's decision in the *Marshall* case. He encouraged survivors to only go to the courts as a last resort.

The National Chief noted that the situation had changed on May 30, 2005, the "moment for the ages", which was a healing moment for Canada to begin to bring closure to this tragic chapter in its history. It was offered that the Agreement was important to First Nations and to Canada because reconciliation was about the entire country, noting that the healing needed to take place both within and outside of First Nations communities. He added that the Agreement could not have been achieved without the survivors, noting that the negotiating and the hard edged approach was due to the survivors being there with AFN negotiators in every negotiation that took place, which made it possible to achieve what had been done.

Leading up to the Agreement, the National Chief spoke of the many government and private sector interests that the AFN had met with in order to gain support. He offered that this had made it possible for others to begin to understand what the residential school legacy had done to Canada, and to see the many scars that it had left for First Nations peoples.

The National Chief recalled his comments on the first day of the Conference regarding his visit to Rome for the funeral of the Pope, at which he was the only Indigenous person known to have been present. He offered that he had spoken of it not as an apologist for the Catholic Church, but to tell delegates that he had sat across the dinner table from Canada's Prime Minister who had committed to moving forward with First Nations. The National Chief added that he had not tried to be offensive to the delegates but was trying to illustrate the course of events leading to the moment of the Political Agreement having been signed. For those who were offended or felt he was being disrespectful, the National Chief offered his apology.

National Chief Fontaine offered a reminder that there were many people involved in the residential school issue – lawyers, academics, church people, professors – people from different backgrounds and colours. He noted that the work that the AFN was engaged in, required the support of many people from many backgrounds and ethnic groups in order to come to a resolution. It was noted that the best minds had been brought together to support the AFN in its endeavours, and that the AFN had reached out to people around the world and had gone as far as it needed to go, which had all been helpful in reaching the current point. The National Chief offered that "this effort requires us to be colour blind", recognizing that "we are all human beings and brothers and sisters" and that there were many who wanted First Nations people to be treated fairly and justly.

He concluded noting that there was no time to wait, that the fair and just resolution needed to be achieved now, and that this was the immediate challenge to be faced. It was reiterated that this was not a process

that would go years into the future but was something that required immediate resolution which the AFN was committed and resolved to ensure happened.

National Chief Fontaine recognized other First Nation priorities relating to lands, the environment, and resource revenue sharing, noting that the AFN would not deviate from the mandate that it had received and would come to the people to work on these issues. However, he noted that the residential school issue was about the past, and that in order to do work relating to the present and the future, it was necessary to deal with the past. It was offered that the leadership would leave the Conference as committed and determined but more optimistic and with a feeling of greater strength then when they arrived, and with confidence that they would finally bring justice for every living survivor.

A delegate interrupted the National Chief's address to question whether the National Chief believed that the native people would get the justice they deserved from the government and from their own people. The delegate spoke of his travels to different reserves where people were treated "less than" if they didn't belong to the right families, and noted the need for native people to begin working from their own communities, with people seeking the help that they needed.

The delegate spoke of the need for people in leadership positions to tell the communities to look after themselves first, offering that it was hard for survivors to speak when they'd been suppressed for so many years, to say what they needed to say. It was offered that the politicians needed to go to everyone, even those that they did not like, because those people too could have something important to tell them.

The delegate shared that he attended residential school between the ages of 6 and 16 years old, and that he was hurt inside about what was done to First Nations peoples in residential schools, and how they had been humiliated. He encouraged delegates not to be afraid to speak what was in their hearts, and not to fear, and commented on the many promises that had been heard – noting that there was a need for actions.

The delegate spoke of having gone to treatment centres that were like returning to residential school. He concluded noting concern that First Nations people were putting down their own youth, in trying to turn themselves around, adding that this was wrong.

The National Chief concluded his presentation, with an acknowledgement that it wasn't all about talk – it was about action. He offered that the Conference had not just been about words – although some incredible stories had been told – but that the AFN's activities were about giving force to those words. The National Chief reiterated that leadership would leave the Conference emboldened by all that had been said, noting "We are going to succeed. There's absolutely no doubt in my mind and that's my promise to you".

CLOSING COMMENTS AND PRAYERS

Elder Elmer Courchene thanked all who had been involved on this journey, and spoke of the journey's importance to each and every First Nation person. He shared that it had dawned on him the prior day that he was the last member of his family to go to residential school who was still alive, and that it had caused him to feel lonely, helpless and lost at that moment. However, as he had walked the day feeling that, and he had listened, he began to realize that the Creator had given him a message and had opened a door for him to move on – that his loneliness would guide him and protect him to find a better way, and he had been reminded that the journey was not only for himself but was for his children, grandchildren and all of this associates. He offered that, when people realized that they were with their friends, brother and sisters, in pain, loneliness and hopelessness they all became the same, with their spirits touched, awakened and bound to each other.

Elder Courchene spoke of the four directions of the senses: the eyes, ears, smell, and the voice, which he offered had been working during the Conference. He spoke of the role of the eyes, ears, smell and voice, and referenced the responsibility for people to be aware that whatever came through the voice needed to come in kindness and be spoken carefully. However, it was recognized that this was difficult for some because of their pain. He spoke of the principles of love, kindness, sharing, giving, and of learning to forgive, and encouraged that forgiveness would protect and guide First Nations so that their history would not repeat itself.

The Elder acknowledged that First Nations were very strong people, and gave thanks to all of those who had given to First Nations and treated them with kindness and made them feel at home, and encouraged delegates to not forget the kind of strength and power that the First Nations ancestors carried. Elder Courchene concluded with comments on the love of a mother, which was the strongest love in the world, and was the love that kept people in line and protected and guided them. He thanked the mothers, grandmothers and women for carrying that love, and also spoke of the responsibility and accountability of the men to respect, protect and look after that love, which was their strength, backbone and guidance.

In response to the earlier asked question "Are we making progress?" Elder Courchene responded "Yes, we are", offering that "the pain brought us together, will move us forward, and will give us recognition and freedom". He added that each person had the responsibility to carry that message for the youth, recognizing that the survivors were the role models of the future. They were encouraged to "stand strong" and to "keep on standing strong".

Elder Fred Kelly spoke of reconciliation being founded on the building block of respect for identity, recognizing that there had been a full frontal assault on this being over the years. He advised that the word "Indian" was used in 1950, was codified in 1968, and that until 1960 First Nations were not recognized as persons and were shunted back and forth under various departments, including the Department of Citizenship and Immigration. In 1927, Elder Kelly noted that First Nations' spiritual practices had been outlawed but acknowledged that even so, the First Nations were here today as spiritual people.

The Elder offered that the nation relied on the cohesiveness of its communities, which relied on self-sufficient families, families that were based on healthy individuals – the individuals being those that were assaulted. It was added that the attempted destruction of First Nations was no less than a crime against humanity, and was part of the residential school legacy.

Elder Kelly spoke of the National Chief who had not explained the loss of his own parents and brothers who went to residential schools, and referenced an earlier held memorial ceremony at which the spirits of the residential schools were asked to be and were present to give the survivors the strength to articulate some of their emotions, and to support them. He noted that at least 1,400 delegates were present at the Conference bringing with them the sentiments of their families, communities, and those who had passed on, but who would continue to love them.

Comments were offered on the need for even the perpetrator to heal, recognizing that Canada and its government were still in denial. Elder Kelly encouraged people to continue to believe in the leadership that had built up the progress to date on residential school issues, and indicated that there was light at the end of the tunnel. He noted that this was the beginning, that it was not over, and that there was a need to support the National Chief in seeking justice and reconciliation for the survivors, their families and for future generations.

Elder Kelly spoke of beauty, noting that First Nations stood under a rainbow arching from their ancestors to future generations yet unborn. He offered that delegates could see the rainbow, and that the hues of light within the rainbow were known as the seven laws of creation which First Nations could live by, and which laws and traditional ways of reconciling needed to be reborn.

In regard to the beautiful City of Vancouver, Elder Kelly spoke of seeing the mountains and ocean, on the land of the Coast Salish people, adding that even to the extent of the beauty that could be seen, the real sensitive epitome of that beauty lied in the Coast Salish people themselves. He spoke of their honour of the delegates through feeding them, as was their custom, offering that this was where the beauty must be allowed to flourish. On behalf of the AFN staff and Executive and the Conference delegates he offered the Coast Salish an honour song for their kindness and love and for the seven laws that they epitomized, as the beginning of the healing journey.

Evan Stewart shared his First Nations name, thanked his uncle for allowing him the use of the name so that his father would continue to live on, and thanked the National Chief also for the private session that he had allowed him earlier in the day, which would assist his family in personal matters. He recognized that many delegates had sadness and had witnessed their parents, themselves and their children crying in silence, and offered that the National Chief had given survivors an opportunity to walk through a door to the other side in order that they could cry tears of joy when this sad part of peoples lives would come to an end, but would not be forgotten.

Mr. Stewart spoke of the tradition of First Nations in believing that eagles visited in order to give individuals the strength for what needed to be done, and spoke of the presence of two eagles at his uncle's funeral which his aunt had told him would give him the strength to carry on. He presented the National Chief with an Eagle feather offering that it meant that he was speaking as a survivor who was chosen, and to give him the strength to carry on what needed to be done.

Byron Joseph, Sko'Homish Nation, recognized that there had been heavy feelings during the Conference, and acknowledged the role of the National Chief in carrying that. On behalf of all survivors, Mr. Joseph introduced Joe Gibby who played The Old Warrior Song to uplift the National Chief and those who stood beside and worked with him everyday.

Mr. Joseph thanked the delegates for their patience and shared that it was within the hearts of his people to recognize the patience of individuals over the past days noting that it was their patience, loving and caring that kept them together. On behalf of his Elders and his Council, Mr. Joseph honoured the following individuals by bestowing them with a artists' print: Richard Right Hand, Christine Peters, Rose Hart, Lottie Johnson, Ruth Stewart, Charles D. Copenace, Charlotte Morris, Charles Easu, Myrtle Morin, Patty Isaac, Caroline Garon, Linda Côté, Aline LaFlam, National Chief Phil Fontaine, and representatives of the Women's Council, the Youth Council, the Elder's Council, the IRSSS and the Tsee'Tseel'Watul'wit".

Charlene Belleau, AFN Indian Residential School Unit Coordinator, asked the former students to make a circle and to hold hands. She thanked the delegates for their patience over the Conference and honoured the leadership for their healing journey. She encouraged people to look to their left and to their right and to hold each other. The Alkali Lake Drummers then performed two songs, the latter being The Road Song.

Audrey Rivers and Byron Joseph provided a Closing Prayer. In conclusion, nine year old Heather Albert sang the "Girl I Need to Be" from The Secret Garden.

Chief William Walker thanked the National Chief and those who had convened the Conference, thanked delegates for their patience, and shared that he had never before spoken about his residential school experience in public, and that having done so he felt better. Chief Walker commented on talking with others about the loss of his language and culture which had prevented him from talking to his Elders. Accompanied by a Drummer, Chief Walker then offered a Dance.

National Chief Fontaine thanked the presenters for their closings and the delegates for their help and support during the Conference and for their incredible contributions. He wished everyone well in their travels home.

CONCLUSION

The Assembly of First Nations – National Residential School Conference held July 19–21, 2005 concluded on Day Three at 12:42 p.m.

LIST OF APPENDICES

APPENDIX 1 – National Chief's Speaking Notes

"Speaking Notes for Assembly of First Nations National Chief at the National Residential Schools Conference – Components of Reconciliation and Forgiveness", dated July 19, 2005.

INTRODUCTION

I want to thank the Coast Salish people for welcoming us into their territory, and I extend our gratitude to the Tsleil-Waututh Nation; the Squamish and the Musqueam. I also want to thank Hereditary Chief Len George for his beautiful opening prayer and drum song, and I want to say to all the Elders that are with us that we are honoured by your presence.

I want to thank all of you for being here today. I especially want to thank the residential schools survivors that have joined us. I am one of you. We are going to need our best thoughts and our best ideas over the next three days.

We are here to talk about an important and painful part of our past.

We cannot and must not minimize or downplay the impacts of the residential schools. The aftershocks are still being felt today.

THE PAST

We know the stories, and those of us who are survivors experienced them first-hand: children running into the woods or hiding under the bed when the government agents came to take them away; parents crying in the night because all the children had been taken away; generations of children ripped from their families, penned up in institutions, beaten for speaking their language, abused physically, sexually and psychologically.

And yet there are those who will claim that the residential schools were set-up "in our best interests", that the government at the time was simply trying to help us become "good Canadians".

Anyone who believes this must then account for the statement by Indian Affairs Superintendent Duncan Campbell Scott, the original architect of the residential schools experiment, who said that the purpose of the schools was: *"to kill the Indian within the child."*

That is probably the most honest – and the most brutal - statement about the real mission of the residential schools. This was not about education – this was about assimilation, of killing the Indian in the child. It was about getting rid of the "Indian problem" by destroying the Indian identity in Canada.

If education was the goal, then the schools would have been in our communities or near them so we could maintain those important family ties that are crucial to our well-being.

If the goal was quality education then the schools would have been properly maintained and funded. Instead, residential schools only received funding that amounted to $138 per student, whereas other institutions received four times as much. For most of the day we weren't even students – we were cheap labour working in the barns, cleaning and sewing.

On top of these deplorable conditions, factor in the horrendous abuse that took place at the schools. I have heard some non-Native people say things like "my father was strapped in school, and he's not getting

compensation". Those comments hurt, because we know that this is about so much more than being strapped.

The number of stories about physical and sexual abuse is staggering.

But it is not simply about physical and sexual abuse. This is not only about one person doing harm to another. This is about The State assaulting an entire culture. It is about governments trying to get rid of the First Peoples of this land.

We must never down-play the terrible effects of the residential schools. We are still living with the after-math. This is not ancient history. This happened in our lifetime. When we talk about the schools we are talking about ourselves, our parents and grandparents.

Parents lost their children. Children lost their parents. Our languages and cultures were nearly lost. These problems got passed down from generation to generation. Many of our people still struggle to live an ordinary life. The residential schools were a blunt instrument wielded against our way of life.

I do not condemn every single person who worked in the residential schools system. **But I condemn the system in total.**

The Royal Commission on Aboriginal Peoples made an important point about the schools in its final report. The report stated that even if there had been no abuse in the schools, and even if they were properly funded, the impacts still would have been devastating. The physical and sexual abuse that took place only made a bad situation worse.

The residential schools are a scar on our shared history.

The legacy of the schools is not only our burden. It is a burden for all Canadians.

Canadians must understand what Canada has *been* before they know what it can *be*. First Nations peoples need to know why we were subjected to such treatment so that we can begin to understand and heal.

THE FUTURE

The only way to know this is through a full investigation and documentation of the origins, purposes and effects of residential schools. We need a national dialogue – a national truth-telling process – if we are ever going to come to grips with this tragic chapter of our shared past.

We cannot un-do what is done. We cannot simply wash away what is burned into our memory.

But we must find a way to take the burden off ourselves so that we do not place it on the next generation.

Many of us are still trying to recover from the experience. It is an obstacle for so much that we are trying to achieve for the next generation. But in spite of the impediments that the residential schools imposed on us, we are recovering. We are gaining ground and moving forward.

I am inspired by our young people who are learning their languages, reaching out to the Elders to learn our traditions.

There's a tendency for many of us – and I include myself – to dwell on the past or become pre-occupied with the harm that was inflicted on us. It becomes a burden.

And we have to be careful because there is a tendency to impose this burden on the young. And our young people who have no idea about what happened in residential school come to live this experience. And it becomes their burden, and too often it becomes unmanageable. We can see the evidence all around us, and we are forced to live this over and over again.

It is time to break the cycle.

This does not mean we simply forgive and forget. We must never forget, and we must never forget.

But we can move forward. We can move forward in a manner that provides for healing, justice and reconciliation. We will always remember the schools – all Canadians must remember the schools – but they must be remembered as a dark passage in our history, and by learning from it we will never let it happen again.

THE RESIDENTIAL SCHOOLS AGREEMENT

That is why we are here today.

On May 30th, the Assembly of First Nations entered into a Political Accord with Canada that recognizes the need for healing, reconciliation and compensation.

We know the government's current process – the so-called "Alternative Dispute Resolution" process – is a failure.

There are approximately 86,000 survivors of residential schools that are alive today, and only a few have tried the government's ADR process.

If we stick with the government's ADR process, at the current rate it will take 53 years to settle all the claims in the system and it will cost Canadian taxpayers $2.3 Billion in administrative fees alone. The actual settlement costs will be added on top of that total.

Right now, the government is spending $4 in administration and legal fees for every for every $1 that goes to survivors.

But if we wait 53 years most of the survivors will have died. The average age is 57 – every day we lose survivors and the tragedy is they are dying without having seen justice, fairness or healing.

The problems with the current process go beyond budgets and administration. At its core, the process is unfair and unjust.

It treats survivors unfairly and unequally. It treats men and women differently. It provides different amounts of compensation depending on what part of the country you live in, and which church ran the school you went to.

The current process **only** focuses on **acts** of abuse and not the **consequences** of that abuse. If you were beaten and permanently injured, you'll only get compensated for the original act even if it ruined your ability to ever work again.

And finally, the ADR process only focuses on individual abuse. It does not deal with the very real and very devastating effects of cultural breakdown, loss of language, and the terrible inter-generational effects that we are still dealing with today.

It was clear to me, as a survivor, as someone who meets with and talks to survivors all the time that we needed a better way.

That is why we pushed and battled for a better approach. That is why we were able to get the government to commit, in writing, to a number of key elements.

Elements of the Political Accord:
- A national apology;
- An improved compensation process for abuse victims;
- A lump sum payment for all former students;
- An fast-track process to deal with claims of the sick and the elderly;
- And a national forum to create a dialogue for truth-telling and reconciliation; and
- On-going role for the Aboriginal Healing Foundation.

JUSTICE IACOBUCCI

Justice Iacobucci has been instructed to submit his report and recommendations no later than March 2006 (about 8 months from now). We will press for an earlier report. It is true that ten months is a lot faster than a court case, but I already mentioned that our survivors are ageing. Justice delayed will be justice denied. We believe that there has already been enough good work and enough discussion that we need not wait another 8 months. We will hear from Justice Iacobucci on Thursday, and I for one am keen to hear his thoughts.

INCLUSIVE AND OPTIONAL

I want to note a couple of important points related to the agreement.

First, you may wonder about the AFN's role and responsibility in this process.

I can tell you how I view our responsibility, simply and clearly: our foremost responsibility at all times is to always act in the best interests of the survivors.

That is why we are here – to get your input, to better understand your priorities and your preferred approach. We, of course, included survivors and survivors' organizations when we designed our improved approach. We want to ensure your voice is heard in everything that we do.

You will have other opportunities as the process unfolds. Justice Iacobucci will be convening his own meetings and he will tell you how you can make your voice heard.

OPTIONALITY

The other issue I want to address is the concern that a new process will be forced on people. This is not true. Let me say clearly to all survivors and their descendents: you will be free to choose your path to healing and reconciliation.

Some people are already involved in the government's ADR process and they are free to continue on that path, if you so choose.

There are a number of court cases and class actions working their way through the system.

If you want to pursue legal remedies then you will be free to do so.

The process we design will be optional for survivors. As a survivor myself, I definitely want our people to have access to a path that deals with all the key elements of reconciliation: healing, fair and just compensation, truth-telling and sharing, and public education.

CONCLUSION

Of course, these are in many ways personal matters. You must find your own way to heal.

I believe in reconciliation. "Reconciliation" can mean many things. When it comes to the legacy of the residential schools in the sense of settling past matters, resolving the outstanding issues that have never been dealt with.

I also believe in reconciliation in the sense of re-establishing a relationship; in this case, the historic relationship between First Nations and Canada.

Our original relationship was based on partnership, mutual recognition and respect.

The residential schools experiment was an insult and an injury to this relationship. We are still re-building, and this work happens in many contexts: self-government, restoring our land base and traditional territories, taking control of our lives and our nations, and taking back the future for our young people.

The day after we signed the Residential Schools Accord, we signed a new Political Accord with Canada. It was appropriate that we first signed the agreement on residential schools first. We can only move forward in a new relationship if we first deal with the pain and the poison in our past.

I know that we will have our own difficult moments over the next three days. The topic is emotional, it is personal and it can be painful.

We have our Elders with us, for if we falter then they will be there to stand with us and support us.

I know some are not ready or willing to talk about reconciliation. I respect that. I hope we can all agree, though, that our job is to create a new memory of hope for our children, to take that burden we have been carrying and cast it aside once and for all.

And let us remember that we can do our part, but Canada has to do its part. They signed this Accord. They built those schools brick-by-brick and now it is time they work with us to tear down the walls that block our path forward.

Let me conclude by saying that I have been heartened many times over the years by the words of our Elders and survivors. What other people, having had to endure so much, would not only still be here, but willing to work towards a fair and just resolution?

Our people believe in sharing, justice and harmony for all our relations. That is why we are here.

We have work to do, but through our efforts we are getting closer to resolution and reconciliation. We can see the embers of a new day, and a new fire that will spark the energy of our people and re-vitalize our nations.

We may come to a day in the very near future where all of us can be proud – survivors, First Nations, the government and all Canadians – that we managed to resolve the most shameful experiment in this country's history in a fair and just manner.

All we can do is do our best. We must strive for peace and healing. We owe that to ourselves, to the survivors no longer with us, and to the generations that will follow us.

Meegwetch!

APPENDIX 2 – Presentation on Reconciliation and Healing

Overhead presentation titled "Reconciliation and Healing: Alternative Resolution Strategies for Dealing with Residential School Claims 2000".

APPENDIX 3 – Paper on Reconciliation and Healing

Paper titled "Reconciliation and Healing: Alternative Resolution Strategies for Dealing with Residential School Claims".

APPENDIX 4 – Indian Residential Schools Unit Report

Overhead presentation titled "Assembly of First Nations Indian Residential School Unit – Report on Canada's Dispute Resolution Plan to Compensate for Abuses in Indian Residential Schools".

APPENDIX 5 – Presentation: The Business Case

Overhead presentation titled "The Business Case".

APPENDIX 6 – Narrative Summary of Day 1 Discussion Period

The following is not a verbatim transcript, but is a narrative summary of the comments, questions and answers provided during the Day 1 Discussion Period.

Q/C: You never mentioned anything about anyone preparing for the settlement. We have a lot of people in distress and the model is proposing a lot of money. I have an alcoholic uncle who drinks and drinks and will probably die when he gets and drinks his money. What preparations are being made for people facing this type of distress?

A: Professor Mahoney: The second half of the AFN proposal is on the need for healing, counseling and community based programs. In that context communities or individuals could seek support. Also, with respect to claims, there is a recommendation that there be an additional, separate amount of money for counseling support for those who have demonstrated need. If individuals know of someone in distress they could seek counseling and support on their behalf. Trust arrangements or other recognized mechanisms could also be considered for those who do not have the ability to manage their affairs. The AFN has not ignored the issue.

National Chief Fontaine: Many people opted to establish trust accounts and trustees in the past. It is a voluntary thing, a decision that has to be made by the claimants. However, there have been discussions with financial institutions to provide advice to claimants, in order to assist them in not squandering the funds that they receive.

Q/C: How are you going to address the physical abuse? Because of the physical abuse that they endured, some survivors still suffer today. Is this going to be taken into consideration or is it advisable to go through litigation?

A: Professor Mahoney: In the AFN Report, Tab 2, page 19, paragraph 2, the AFN recommendation is to redefine abuse to include physical, sexual and emotional abuse and to not separate those out from one another. People would receive a lump sum for their attendance and could then make claim for additional compensation based on their personal circumstances.

Q/C: Does it matter how long survivors attended residential school? Some attended for two weeks, or for six months or less, because they were classified as non-status.

A: Professor Mahoney: If an individual attended residential school for a year or for any portion thereof, they would qualify for the lump sum payment of $10,000.

Q/C: Would it be advantageous to go through litigation for the deceased? There are many who were affected by the residential school syndrome who have passed on.

A: Professor Mahoney: That matter is not yet resolved. The AFN position is that the lump sum payment should be applied back in time but that point in time has yet to be negotiated in order to remove the perception that the government is delaying to save money.

Q/C: How many pages is the ADR form? There was talk about streamlining the process. If we claim for compensation are we forced to sign away any further claims? As well, will there be a discussion on compensation for loss of cultures and languages?

A: Professor Mahoney: This has not come to final decision. There is the AFN Report and the Political Agreement. The AFN has suggested a one page form for the lump sum claim and a six

page form for more severe abuse claims. Whenever a person receives a settlement they are expected to sign a release from further liability. The government will require people to sign releases on any compensation that they receive. The releases to date have only been for sexual and physical abuse. No one has signed away for their loss of language and culture. It is open to negotiation if someone takes a claim to the Supreme Court for language and culture that exceeds the formula, all claimants should get the difference. The lump sum is for loss of language and culture, loss of family and the residential school experience. There is currently no case law on loss of language and culture and yet Canada has moved towards the notion of a lump sum.

Q/C: This process seems to be a fast-tracked system. It seems like a "take it or leave it" situation. $10,000 should be paid out and then a settlement should be negotiated by our leaders for the holocaust that our people went through. Atrocities still occur to date. Cutbacks to programs still continue. Our entire culture should be compensated for the damage to our people.

How does this process affect those survivors who are in the treaty process? Are they to be excluded? Are disabilities in this process? Do we have an appeal process if things don't go the way we wish? Those who don't choose this process should not be forgotten. A Task Force of Aboriginal Survivors needs to be established to assist in these decision making processes.

A: National Chief Fontaine: There have been consultations throughout the process with survivors, who were uppermost in peoples' minds, and the driving force. No one would be forced to accept the settlement package, which is entirely voluntary. The AFN believes that this settlement package is a good one that will bring much happiness to thousands of people. The issue is about compensating all those who attended residential school, even if they were part of an ongoing settlement process. All of the issues raised need to be addressed but this undertaking is specific to the residential school experience. The Mennonites in northern Ontario and those students who started in residential school and were then hospitalized for long periods will also be included in the settlement package.

Q/C: Survivors have been taxed with GST and PST on the settlements that they received. Is there a way for the AFN to lobby to have those taxes removed from the settlements with the survivors and to reimburse those who have already paid the taxes? There is a new Catholic Pope. Will the AFN make a move towards pressuring the Catholic Church into settling up their 30% for those survivors that have another 30% coming to them? You have our support. There has to be a way to make the Catholic Church pay up.

A: National Chief Fontaine: There are active discussions with Catholic Church entities that are part of the settlement process. A resolution relating to the 30% outstanding is anticipated soon. A good number of claimants who received settlements were on social assistance. The AFN has intervened. The Government of Manitoba has changed its policy and other jurisdictions are considering a similar position.

Professor Mahoney: The recommendation is for survivors' settlements to not be tax deductible, which requires changes by the Customs and Revenue Agency and/or a Cabinet resolution.

Q/C: I have a sister who has received some compensation. Some women were told to keep silent about their sexual abuse and the pregnancies that ensued, including those who were impregnated and then were punched in the stomach until they miscarried. How do they proceed with a claim when there is no medical evidence to support them?

A: Professor Mahoney: Just because there isn't medical evidence doesn't mean that women cannot make the claim, but the claims will be stronger if they have supporting evidence. A major AFN

recommendation was that the ADR take gender into account, recognizing that men and women suffered different abuses. The need to look at the injuries and the consequences through a gender sensitive lens was recognized in order that abuses against females couldn't fall through the cracks.

Q/C: My sister understood that the female survivors didn't get the same settlement as men who received $300,000 to $500,000. Some of the female survivors did not feel adequately compensated.

A: Professor Mahoney: There is also a recommendation that the adjudicator's training be gender specific.

Q/C: The Agreement has a clause restricting lawyers' fees – is that for the government or survivors?

A: National Chief: It's from the Survivors' side. The AFN will make sure that the commitment in the Political Agreement is adhered to.

Professor Mahoney: There is discussion about who would pay the fees. Options include: if the government paid 15% of the legal fees, they could put as a condition that lawyers could only charge a certain percentage; or dictate that lawyers could not take a percentage of the lump sum. In the Irish model the government paid all legal fees and built in its own restrictions for how much they could be.

Q/C: Sometimes the survivors have memory block. It's not fair for the person especially when the child is in a system where they can't express their own language. As a person gets older they get nightmares and don't understand why they're happening. Will the lawyers be educated and have sensitivity to the cases?

One lady took eight years to go through the system and was awarded $50,000. Would there be a chance to review cases like that? Is there support for individuals to bring forward their cases in a fair way? That whole area needs to be looked at – in terms of the fairness for the survivor.

As well, ongoing healing is a lifetime thing. Is the government committed to supporting that – that healing has to be ongoing with no cap and no timeframe? How will human rights be balanced with this process?

A: Professor Mahoney: The AFN has recommended that it be a requirement for the adjudicators to have specific training and knowledge of child abuse and the suppressed memory syndrome. The AFN Report Recommendation #12 says that all of the hearings should be approached through a "harm/consequential" relating that something happened and the harm that resulted.

Q/C: I have an ongoing claim going through the court process. They've already made me a ridiculous offer that was very insulting. What do I do about the court case when I think that the AFN process is much fairer?

A: Professor Mahoney: If you're in court and haven't had a judgment, you can adjourn the claim and walk away. If you accept a claim and sign a release you're stuck.

Aaron Renert: if the claim is ridiculous there is no point in accepting it.

Q/C: I've survived the residential school without the AFN, without help from a band, and without the support of anyone else. I've paid for my own therapy and have reclaimed my power and have

forgiven myself. I have never before found a place to have my say. I did not expect to hear from a lot of speakers, I'm here for me, not for my brothers and sisters. I am here to speak my truth.

I don't want the AFN speaking for me, or signing any agreement on my behalf. I don't want anyone fighting for me.

I remember asking the National Chief 15 years ago why the residential school issue wasn't a public issue. He went back to Winnipeg and started talking about the abuse that he faced – look what that's done. There are 86,000 other survivors who are alive but who aren't here today.

I've been to the death camps in Europe and have worked with the Jewish survivors and have worked for 10 years in the communities and no one knows that. I don't have a honourary degree, I'm on the ground every day.

The residential school is part of the larger process that we call cultural genocide. The work of the government of Canada and the churches was to wipe us off the face of the earth. We're not better than them and they're not better than us. We are all here and that's what we need to confront.

People wanted money to pay for the pain that they went through. Many children have gone through horrendous sexual abuse with five month old babies being orally raped by grown men. In the thousands of homes the sexual abuse is beyond description, it is genocide. When your children come and sue you, what are you going to do? You're saying you were violated by the government of Canada and the churches, but you violated the next generation and what's the solution?

It's every Indian in this country that deserves justice, not just the survivors, and I am a survivor. Every Indian has endured violation. There is no way you can speak for me. What about those children? What about all the other Indian people that suffered? What about the 44 years after I left residential school? What about that? Who's going to compensate for that?

A: National Chief: There are people who are able to speak for themselves and we will not stand in their way. However, I have been very clearly instructed to pursue a resolution of this matter and I will continue to do so to the best of my ability.

Q/C: Why did we settle for $10,000, $3,000 plus $3,000? A "white man" received a settlement for $10 million, another received $1.2 million and another six "white men" received $100 million. That values us at less than 1% of the "white man". Numbers agreed to can set precedents for us. The government lawyers will go on the basis of the figures that the AFN used. The lowest I've heard is that someone received $8,000. If you take that money that is being offered and consider the time since leaving school, in some cases you're getting $160/year for your suffering, or $17/month.

In that suffering there are a lot of other implications. My wife has lived with me for 34 years. Suffering over that period of time affects your relationships, and your finances. The AHF employees will make more money in one year than I will receive for 50 years if I receive $10,000 – I'd have to go to school for 150 years to equal their one year of pay.

I've often wondered about the reality that a native male who sexually abused a "white" male/female could sue me for $10 million but I can only sue them for 1% of that if they abuse me. What was the rationale for the lump sum of $10,000? How do you plan to increase that? How do you influence the government lawyers not to use that as a precedent setting amount for others

to be compensated by? In spite of my comments, I'm not totally disagreeing with what was said today.

A: Aaron Renert: The cases referenced were cases of severe sexual abuses. The $10,000, plus $3,000, plus $3,000 will be a break through with the Government of Canada admitting its assault on peoples' languages and cultures. The physical and sexual abuses will be considered separate and apart from that. In a case last month a survivor received $100,000. The lump sum being proposed does not preclude an additional claim for physical and sexual abuse.

There is no answer to the question of how much money you put on blood, but if your starting position is one that they consider to be outrageous they will not settle. The $10,000, plus $3,000, plus $3,000 is based on the only precedence in Canada which was the Japanese redress for what they faced under the *War Measures Act*.

Q/C: After you receive the $10,000, plus $3,000, plus $3,000 and you want to go back to school to learn your language will you receive money for that?

A: Professor Mahoney: One reason $10,000, plus $3,000, plus $3,000 was chosen was that there were other programmatic areas that funding would be wanted for, i.e. language and culture, healing, etc. As such, there had to be a number that was within the realm of being reasonable in the context of many other things that the AFN is pursuing.

National Chief: The Japanese received $21,000 each for 23,000 Japanese. The largest single settlement to a people in Canada was paid to the people who contracted Hepatitis C through blood transfusions, which was $1.2 billion.

Q/C: Canada's foundation is the Magna Carta. "Magna" means "huge", "Carta" means "to charter". "Charter" means to "lease, or border for a short time". Canada's charter was up in 1948 at which time it was supposed to start to decolonize. Instead they gave themselves a further 60 year lease. Canada's charter is up in 2008, I suggest we just take our country back.

Q/C: Who is going to define the word "serious" in your agreement?

The government is appointing Justice Iacobucci but if the government is paying him for his work isn't that a conflict of interest?

If someone is already in a court case will they pay their current lawyer a portion of the $10,000, plus $3,000, plus $3,000 settlement? How will this affect those who have a court case that includes loss of language and culture? Will this set a precedent for them? My calculation of the settlement is that the $1.7 billion should go to the survivors with the government paying the administration bills separately.

A: Professor Mahoney: In regard to the $10,000, plus $3,000, plus $3,000, the government has already agreed to pay Category B claims for people to go to lawyers so there would be no legal fees on the lump sum because it's an administrative matter. It is anticipated that the government will pay the fees for individuals to receive advice on what they're signing.

With respect to loss of culture and whether a precedent would be set by the $10,000 lump sum, settlements and court cases are different things. Cases are not affected by settlements out of court. No court in Canada has yet recognized any claim for loss of language and culture.

Q/C: I wrote a book called "How I Survived...". My nation took $5,000 and used it. We lost that $5,000 and never got it back. I'm still here, and it's like being stuck in residential school – that's discrimination. I got here to this Conference by hitch-hiking. All the money is supposed to help the residential school survivors. I went to do my genealogy and they couldn't do it. My rights have been violated under human rights.

I've been trying to find my father, I was brought up by my grandparents, and my grandfather's history wasn't even documented. Today I have nothing, I've been pushed away. I went back to college for four years and they had no records and no transcript of that. I don't exist in that nation. This is corruption.

Q/C: I have one brother and two sisters and we all went to residential school. I'm 90. How much longer do I have to wait to get anything out of residential school? My sister is not that well. She's in the hospital with a stroke but they're letting her go home today. My brother has worked all his life as a logger and he can't do it anymore. He's taking care of a great grand-daughter now. There are many who would like to be here but who can't travel.

They took me to school when I wasn't quite five years old. One of my sisters was four years old. They didn't tell us where they were taking us – just that they were taking us to a good home.

A: Professor Mahoney: Your age would make you a person who should be at the front of the line for a settlement. Our ambition is to have people paid as quickly as possible – especially the lump sum. Make sure that you give us your name and address and the years that you attended so that we can put you on the AFN's list. In the event that we receive a payment we would have those details needed in order to make the lump sum payments.

If you are making a more serious claim, get a written or taped statement taken before a Commissioner for Oaths in order to preserve your story so that the statement would be validated for a more serious claim. The serious claim would take longer to go through the process.

Q/C: I was at residential school 10 years and the first five years we worked half a day and went to school half a day. There were 300 children and we prepared breakfast, lunch and dinner for them and cleaned up and did their laundry as well. There were only 12 supervisors who couldn't look after us.

A: The lump sum takes into consideration forced labour and the inadequate education given.

Q/C: It's not enough. The people who are doing the healing are not qualified. I'm wondering if we could make sure we have qualified people to counsel others. There is a difference between a lay person and someone who is qualified to counsel.

A: Professor Mahoney: Our recommendation is that anyone who has received counseling be compensated for that.

Q/C: I spent six and a half years in residential school. How would I claim if I was only there for six-seven months of the school year?

A: The recommendation is that any part of the calendar year is considered a year.

Q/C: I just started the ADR process and it's an awful package. I feel victimized all over again. It's opened issues that I thought were already dealt with. If a person makes a phone call for the ADR process it should trigger immediate counseling.

I've been told by some leadership that it's time to move on, that rivers can be cried. I came here on my own. I know the man that lives right beside me, in talking to his wife she shared that he was the only one of a family of 14 who was still alive. I understand self-identifying but his wife is asking me if I can find out information and bring it back to her because he's not sure if he wants to expose himself to this process.

The abuses were supposed to happen inside the residential school. But, because of abuse at the school, I was put in isolation in the men's ward of the hospital and was further victimized by a male patient. What happens to the abuses that happened outside of the schools?

A: Professor Mahoney: The AFN addressed the point of the location of abuse – noting that there should be no difference whether it occurred in or outside of a school. We've addressed the form and the fault based nature. The AFN recommendation is for a no fault approach – that's the Irish model which is a well accepted model. All of these points are addressed in greater detail in the AFN report.

APPENDIX 7 – Truth-Sharing, Healing and Reconciliation

Overhead presentation titled "Truth-Sharing, Healing and Reconciliation (THR) National Truth Telling Process".

APPENDIX 8 – Narrative Summary of Day 2 Plenary Discussion Periods

The following is not a verbatim transcript, but is a narrative summary of the comments, questions and answers provided during the Day 2 morning and afternoon Plenary Discussion Periods.

Q/C: I spent nine years in residential school. Coming here brings back a lot of memories. I recently went through cancer which brought up a lot of issues – being treated by the doctors brought me back. I was sexually abused from the age of seven years old. It was a healing process for me to talk about it. My dad committed suicide and my mother had a brain tumor but was treated as a "drunken Indian" until a "white man" explained to the doctors that she was sick. I was sexually abused in the schools and then I worked the streets – it was all I was taught.

Q/C: Many of our First Nations are in the treaty process at this time. There is a part in this process called the SOR – like the social assistance program. In that process, whatever money you receive the government claws back 50% of. How will this be addressed once compensation is finalized?

A: Bob Watts: In the AFN Report page 28, Recommendation 17, it speaks to any awards not being taxable or deductible from any other source of funding whether it is social assistance, disability pension, etc. So far, the Government of Manitoba has agreed not to claw back any awards to former residential school students. Over the next several months the National Chief will meet with other premiers to urge them and the federal government to follow Manitoba's lead.

Q/C: When the government lawyers cross examine it worries me that the survivors don't understand. Some are so mixed up that they are hurt and crying and don't know how to answer and that's how the government beats them. The survivors support when they go to the courts. Someone should sit with these people so they don't get hurt so much.

A: Professor Llewellyn: This is a significant worry that prompted the move to create the ADR process in the first place. The process needs to be streamlined but also need to be made friendly and non-threatening for survivors – from the form to providing supportive forum to the training of the adjudicators to listen to the stories and to allow those stories to be told in a way that is non-threatening and non-aggressive. This is also important for any truth-telling process.

Q/C: I've heard many speakers offer a blessing to all of our present residential school survivors. We have many past survivors whose hearts were split open and they left residential school and were told to go home on their own. They never had a healing. A lot of our First Nations people were lost to the Vancouver Eastside, to drugs and alcohol, HIV and AIDS – they never had counselors to help them in 1949 like we have today.

[Delegates joined the speaker in offering a prayer for past survivors].

Q/C: I've gone through a trial and want to talk about the word "forgiveness". I haven't attended church since I went to residential school. How can I forgive those sons of bitches? I found a resolution. I can forgive you whether you deserve it or not but what does that do for me? It takes the chain that bonded me to that church – and it breaks it. If you can forgive you will find that you can get on with life.

Q/C: Why isn't my church here and that priest that forced me into that school and why doesn't he want to give me money? The priest is the one who came and talked to my mother. I still pay that price today. I carry the TB. I was 10 – 12 years old and got TB. I was only going to live for six weeks.

My mother said, what happened? It was like prison for me. I couldn't understand what I was doing. I paid the price.

My daughters are here and take care of me now. I've been in an Elders circle for 13 years. I'm shaking about what you're asking us to do. It's hard to open my heart. I cry every day for what you guys are doing to us and for everyone here. Some of us walked here and some of us went hungry to be here. What do you want us to do? The more you do the more it's going to kill us because we can't take this. Who's getting the money? I'm not getting anything. Who's paying for this? It's the government's fault, and they should pay for my hotel. I don't have to prove anything. This is our land and we were here first. It's a dirty shame what they're doing to us.

Q/C: I'm a survivor of residential school. When I left I hated the church, the law and society. Twice I tried to commit suicide. The doctor told me I should be dead, and gave me a 10% chance to live. He said that whoever saved me wanted me to do a job. I feel I lived to tell my story.

How do I get onto this traveling committee to tell my story? What guarantee do I have that the media and television will tell my story truthfully? I've heard millions of good words being said by our people and yet the next day I pick up the paper and don't see one mention of our good words, just the poor words. All I see is the negative. How will we get the truth out to the public so that they have the truth? Where's my guarantee that the media will tell the truth word for word – not omitting anything? That's the only way that the public will truly understand and will give their support for all of this to happen.

A: Professor Llewellyn: These are some of the questions asked by the South African Commission. They did two things to try to counteract this – they recorded everything and created a repository of those stories. We need to consider how to make those stories accessible and make them part of our living memory. As well, the Commission did live broadcasts of the hearings so that there was a summary each night that had direct clips and there was radio broadcasts of every word at the hearing. It was very powerful in changing the minds of people.

Q/C: There are a lot of people getting paid, benefiting and saying that the reason we have problems on reserve is because of residential school survivors. I feel everyone else is benefiting by riding on the backs of survivors and then they throw us pieces of bread – for what? Our people are salmon eaters and moose eaters. We survivors need to be taken care of too. I'm glad that this Conference is for three days because in the past the survivors never had a chance to give their say.

I'd like to talk about the lump sum. Some Elders should receive more for the pain that they had to suffer for a longer period of time because of their ages.

Also, what if you went to court and the courts say your claim is worth $8,000 and they say we owe them $17,000 of the lump sum we received. We need protection that the government won't say we owe them money.

A: Aaron Renert: The lump sum is separate and apart from any other court action that had already concluded.

Q/C: I would like the definition of "kidnapping".

A: Professor Llewellyn: Taking children from their parents and placing them in residential institutions is clearly a "forced removal" or "kidnapping". The question is whether the law has found a way to compensate for that. Those are some of the claims that would be made under the ADR process or in court.

Q/C: What does "coerce" mean?

A: To force somebody to do something against their will.

Q/C: My understanding is that little kids, 4-6 years old, were kidnapped from their families. This really hurts me. The government kidnapped me. I'm 61 years old now and after all these years they want to give me a few thousand dollars? I was in residential school for 10 years. You know you can rip up or shove the ADR papers. You're going by a point system. If I was abused for one day I was abused for a life time. You don't just give me $10,000 and say "you're through".

The government and the churches should be paying the lawyers' fees for me and for everyone else who is going through litigation. Let's do something about that – I want the money back for all of the people who have gone to court already. You have to respect a person who has had abuse for 50 years, to allow him to say what he has in his heart. I'm hurting. This is a lifetime of hurt.

Q/C: We're all hurting which is why we're here. I've been involved with the residential school issue for some time. It has hurt me. I've abused alcohol, drugs and have contemplated suicide. My grandfather, my grandmother and my parents all went to residential school. It doesn't help that the government still continues to battle us and that we still have to continue to fight for justice. They don't understand where we're coming from and what we went through and that's a shameful part of Canada.

Today we're not very close – my siblings, it's like we're not related and that is the impact of residential school – it has put a wedge in my family systems. Who are my nieces and nephews and kinship? Those are just some of the things we've lost. For the suffering we've experienced someone has to pay.

My grandfather was beaten to an inch of his life and someone needs to pay for that. Someone has to pay for those people who are gone. We're here to make sure that justice is served, to listen and understand what happened in those residential schools. It will take a long time to recover. We think we're normal but we're not normal. There is a lot of dysfunction and a lot of distrust.

I participated in the walk to Ottawa from Manitoba. We need to help our leadership in brokering an agreement for us. They have to listen to the survivors as well who want to be involved and heard. The $10,000 should be compensation for the fact that we went to residential school only. We met a lot of people on the walk and it was great to do that, to work with them on this issue that has affected so many of us.

Give us the money. Everyone else is getting rich. Give us a little bit. We need to get the government to give us the money to teach us the languages – it's the basis of our culture. Give us the resources and we'll teach our children. Our children and grandchildren need the resources.

A: Professor Llewellyn: The lump sum is a pittance and is intended to be symbolic only, to recognize the harm which was being put in the school. Other abuses will be handled through the ADR process. The lump sum isn't intended to repair all that harm. There are other collective harms to communities, languages, and the next generations and we need to think about collective compensation for those.

Q/C: I'm thankful for the privilege of three minutes for truth telling. A young warrior related to my children stands beside me. I started my healing journey 10 years ago. Five years ago I started drumming, signing and dancing – it took me that long to get it out of my head.

Three years ago I went to North Vancouver and attempted to get involved with ADR and couldn't find the support and counseling that I needed. I won't get into my own truth telling. There is a huge issue and that is that the needs of the survivor need to be met. The cost has forced down the survivors. I opted out of ADR because of the cost. What will the AFN do to change that?

A: Bob Watts: The AFN has recommended in its Report to ensure that funding for the Aboriginal Healing Foundation (AHF) is continued. Last year would have been its last year but the AHF Chair and others worked hard to ensure its continuation. We've put this issue into the agreement with the federal government, noting the need for local community supports that are accessible funded by the federal government.

Q/C: *In residential schools we were all used as guinea pigs to test drugs and many don't remember.* One of the experimental drugs was to make people forget. If you want more information on this you can find it on the internet. A lot of our Elders are dying, many with cancer. Was there something given to us in the drugs in residential schools to make us more prone to cancer? We were used for testing memory loss, TB and other diseases. How can you prove what you don't remember? Is the government willing to commit themselves to say what schools they used drugs on? Many people who don't have claims don't have them because they don't remember.

Regarding the lump sum, I'd like to see it in "black and white" and "carved in stone".

Q/C: The picture depicted is very powerful. It made me remember me my experience. My father went to residential school for 13 years, I went for eight years. I'm a father, a grandfather and a great grandfather. My children experienced many things because of what happened to us in residential school. I blamed my father for many of my experiences but I realize now that it was because of what he went through. My mother died two years ago, she never told her story.

I'm 50 years old and looking at the next generations. I see the language and many things being lost. How will we be compensated for that? In my travels what I'm seeing is that there were some who saw sexual abuse done to other students – how is that recognized as part of the compensation? In our community we had funding for crisis management, but two years isn't enough. When people start to disclose it's a lifetime process. What are we prepared to do? We have to recognize this process as being long term.

Q/C: Of the indirect consequences of the residential school to First Nations, a major one is diabetes. A lot of First Nations people were starved in those schools. As a consequence of leaving we always ate as though every meal was a last meal which contributed to our diabetes. That shouldn't be forgotten.

Q/C: Why were the main perpetrators of this system – England and the Queen – not mentioned in this process? Will you make sure the Queen, the Chief Justice of the Privy Council, the Prime Minister, the Governor General and the Commissioner of the RCMP offer an apology? All of them are responsible and need to answer collectively. Will the AFN make sure that the government agencies make the apology to these people who so desperately need it?

A: One breakout group this afternoon deals with the issue of the apology – who should be making it and when it should be done. This is exactly the feedback that we want from people during that session.

Q/C: I was in residential school and they told us a lot of things to hurt us, especially spiritually. They told us that our language was evil and that our ways weren't right. Something is lacking here. I got thrown into jail and read the Bible every day – I haven't read in the Bible that I was evil. Will

Church people be held accountable for misrepresenting the Bible? A great crime was done in that area of twisting the truth alone.

A Japanese woman asked why we [First Nations] drank a lot when they were subject to racism too. But the Japanese families were not split apart. They had their parents to go to. We didn't, we were alone.

What about the $400 million that was already spent? Who will hold the government responsible for that $400 million that was spent [in the current ADR process] to give out less than a quarter of that to survivors?

I lost two brothers who went to residential school, one died when he was 25 years old, the other died when he was 37 – both suffered terribly in residential schools – what about the deceased?

What about compensation for your life after leaving the residential school? I kept falling into depression and addiction. I probably lost $200,000 to $300,000 in employment income. My counselor said I was reporting it like it was in the news. She brought me back there to that time and place and I went into trauma again and I was in shock and in a lot of pain. From that point I went into a depression. What about all the painful memories and psychological damage that people have suffered? The consequences are important because so many of our people are disabled.

A: Professor Llewellyn: The current ADR process puts more emphasis on the thing that happened than on the consequences, the AFN recommendation is to flip that so that what really matters in the consequences.

Q/C: I'm from Mount Currie. I want to bring out the truth. I was sexually abused and was strapped. You keep talking about money, the $10,000 lump sum and $3,000 for every year - no amount of money can pay for the emotional and sexual abuse. You can't pay for that. There is no meaning. There is no closure. You can give me all the money in the world and I will still hurt. We were taken away from our families, and then there was drugs and addiction. Rehabilitation did not work because people came out worse. I drank and did drugs because my mom and dad did it. I tell my children that I wish I could turn back time to when I did not drink. I tell them to take the ugly mold and make a better mold, take the ugly path and make a better path. I tell my children every day that I love them. Even if they are 400 miles away I tell them every day. I'm here to listen. If anyone needs to talk, I'm here to listen.

Q/C: It is hard for us to prove anything or find the records. Where are the faces of our perpetrators? Why are they faceless and nameless? I find that very unfair. I have a real problem listening to our Grand Chief talking about going to the Pope's funeral. I have a problem with that. Also, forgiving and forgetting is not my religion - that belongs to someone else. I'm also concerned about reconciliation with families. A lot of us are separated. What happens in that process? We have parents who are sick. Are we ever able to talk again as families?

We should be able to see the faces of our perpetrators because they can see ours. The information is out there, why is it not given to us? I don't think forgiveness is up to the government, it's up to us ourselves. The only way you can forgive yourself and the past is to forge ahead and leave the past behind. That's what I did. I'm trying my best to go ahead and not look back.

Q/C: All of these people are very courageous, all of the survivors. I'm 58 years old now and I have to speak for all my brothers and sisters and the way we had to live. For most of my life I've been on

welfare. I drink a lot and get flashbacks about residential school beatings. One time they stripped me.

I lost my language but will not lose my visions. It's pretty hard to forgive. Some days I can be loving and some days I can be like a buffalo ready to run you over. But I struggle to forgive. In Kelowna we had a 100 year celebration and they did not tell the residential school story. They are afraid they will scare away the tourists. The public needs to be educated to understand what we go through. We have to stand together and be strong, chase away the fear. Lawyers have a purpose but we have to stand up for ourselves. As I watched the dancers last night, I saw my identity. That's what I like about pow wows, that's who we are – First Nations.

Q/C: I'm here for myself and my sister. I was sexually abused when I was seven and it's been bothering me for a long time. I lost my loved ones through residential schools; my dad, mom, and my brothers. My sister's case went through court and was put off. That's what happens with rape and sexual abuse cases today. Now she has gone back to drinking. For me it's also been quite a struggle, even just getting up here and talking. I'm 62 years old now and have to get back out and work. How sick do you have to be? I've had eight big surgeries and had a tough time getting through that.

A: Bob Watts: This is one of the things we have in our report. There are people passing on every day. We need to speed up the process to make sure they are recognized. At this moment there is no definition of the sick and elderly. For example, would a person need a note from their doctor verifying they are in a life threatening situation? We are not sure right now how it will work, but during the negotiation period the intent is to make sure that people who are elderly or have illness are first in line and dealt with first.

Q/C: I went to residential school in Alert Bay. Our families have already passed on, like my sister who died at 15, two years after getting out of residential school. We need to make sure they are not forgotten. I'm here more for my sisters because I see what has happened to them more than to myself. I was the youngest and watched them being beaten and sexually abused. Myself, I didn't bother getting any counseling. I had nightmares about my mother in residential school and all they did was tell me to shut up and stop crying, because it wouldn't get my mother back.

I've basically worked all my life to get residential school issues out of my mind. It's a hard thing that we all need to work on. It's a big, big step for us. You had to line up for meals and if you were five minutes late for lunch or dinner you didn't get any. They made me scrub the stairs with a toothbrush. But they didn't stop me from speaking my language or going into the longhouse. We must get out and see things. I needed to get up and talk about my sisters. Please say a prayer for all the loved ones that have passed on.

My recommendation is to get the money and send it directly to the people. My question is in four parts:

Q/C: About the commemoration being planned, does it have to wait until the agreement is signed? At what stage can we start planning the commemoration?

A: Bob Watts: The direct answer is that it doesn't have to wait until the agreement is signed. There are other types of commemorations going on all across the country. We can go ahead at any time.

Q/C: Who would I talk to about the process involved in proceeding with commemoration?

A: Bob Watts: Charlene Belleau of the AFN would be best person to talk to.

Q/C: About the agreement, the more I understand, the less I know. I know residential school is just part of a bigger thing that happened to our people across the country. Since we are being recognized for being abused, where is acknowledgement of the abuser? I didn't see any acknowledgement about the abuser. I'd like to ensure they do not to impose their lifestyle upon us in any other form.

A: Bob Watts: I think some of things you touched on will be outside of the agreement. With regard to apology, we need an apology for the wrongs and assurance that the wrongs will never be done again.

Q/C: As a survivor, if I signed an agreement with Canada that I will take a certain amount of money and accept the apology, how will this affect those that didn't go to residential school yet survived other assaults? By accepting the package, am I doing something to harm the eligibility of future generations' who are suffering the effects of residential school?

A: Professor Llewellyn: The release you sign does not mean that you accept the apology or are offering forgiveness. Dealing with the other issues will take place through the truth and reconciliation process. Some of the recommendations that come out of that process may explain why relationships continue to be harmful.

Q/C: I went to residential school, but also went to Band school. Being at Band school was much harder because the abuse was more blatant. There was sexual abuse openly in the community. I want to know why Band schools are not part of this process.

A: Bob Watts: We've put forward these recommendations to deal with the residential school experience. The process has being guided by working groups and survivor groups. We have a fairly narrow focus because if we go to broad we will weaken the focus. But the Band school issue also needs to be looked at because it has affected many people and is still happening.

Q: I know that it's not an easy job and as a People, we need to stay focused on what we want and we need to work together with other Nations. Are international law courts involved in any way with the situation with First Nations people?

A: Professor Llewellyn: There is no International Law of Justice but the international community does intervene by requiring Canada to produce a report each year on how they have kept up with international law. There are questions around Canada's report, but there is no clear signal of dishounorable behaviour by Canada with regard to First Nations.

Q/C: I went to St. Michael's school in Alert Bay at the age of five. My childhood was spent at residential school. At 13 I went to the hospital with tuberculosis, which is where I spent my teens. With a lump sum of $10,000 and an additional $3,000 per year, I'm wondering if time in the hospital is included in the Agreement.

Also, you mention physical, sexual, and emotional abuse, but I'm wondering why neglect is not included. For example, when we first went to school, we had stuff put on our head for lice, but our teeth, eyes, and ears only got checked once a year. Also, I'm wondering why tuberculosis is not part of the agreement.

A: Bob Watts: Being a student at residential school includes any time spent in the hospital while registered at the residential school. From our point of view it is still considered time in spent at the residential school.

A: Professor Llewellyn: Neglect will be included in the abuse standards. For example, we are trying to capture elements such as not feeding or caring enough through the lump sums and community reparation.

Q/C: Compensation is being offered to me and I refuse to take it. I am sick. I had a vision of First Nations people, and the vision was about healing the First Nations people. Its not about the almighty dollar, it's about Jesus. It's about forgiveness. It's a hard thing to do but we must do it. I'd like to forgive, and my trust is in Jesus, not in the dollar.

Q/C: My mother and father went to St. Paul's residential school in North Vancouver. I didn't understand what was going on. My dad showed it through alcohol, but I'm so proud of my mom and dad with how they worked with the community. My dad has taught us the language. I went to public school so I don't have any idea of what people went through at residential school, but I know there is a lot of pain and hurt. Because I had some balance with my mom and dad, we worked hard to build bridges in the community. Work to make it easier for your children to play with white people because they have to live in that world. We don't need money to learn the language and culture, we can choose to learn.

Q/C: I work with people who are on income assistance and close to homelessness. I see their pain and anxiety. I believe I feel good because I want to help people help themselves. Hanna Taylor, a nine year old child from Manitoba, started a charity to raise money for the homeless. She believes that if you do something about a cause you will feel good in your heart. She founded the Ladybug Foundation and has gone Canada-wide, raising over $600,000, and she is only nine years old. I want to carry on the work that she has done. I want to see a ripple affect across the nation. I would like to do a collection at this Conference to help Hanna to carry on with this.

Q/C: I went to St. Mary's Residential School at five years old and for the first seven years stayed there for Christmas, summer – everything. My brothers were molested and beaten. The way they kept us from telling anyone was by picking on us. They called us incestuous because we were hugging each other, trying to be strong. They put stuff in our hair and I lost all my hair. I was a product of sexual abuse.

Also, when I was seven or eight my appendix burst. I almost died, with 50/50 chance of living. That is health abuse. Later I had two nervous breakdowns, lost my baby, and had nightmares. It wasn't my mom and dad who did this, it was residential school. The school doctor turned away although he knew we were being abused. I dreamed of a perpetrator coming and stabbing my son and cutting his throat. I had treatments and was diagnosed with manic depression. You have no idea what we went through to keep those things silent. They abused us to the extent where we had no name and no heart. We were just numbers to them.

Q/C: I have not been in residential school but that does not mean I have not suffered the ramifications. My brothers and sisters were taken away then reunited. All the physical and mental abuse was passed on to me. I grew up as an alcoholic and drug addict, grew up on the streets for years, and ended up in the hospital a few times. I spoke to a lawyer about compensation for myself regarding the residential school system. He informed me that because I was not registered in residential school, I do not qualify. But I suffered the same abuses as my siblings, as it was the same abuse that was passed on to me. Now I am a graduate in Family Community Counseling. My question is, is there any compensation for those of us who were not registered in residential school, but

suffered the ramifications of residential school? What about the time lost? I'm 41 now yet the employable age is 18. In those 20 years I lost income due to my addictions – is there any compensation for that?

A: Professor Llewellyn: With regard to second generation and immediate family claims, we still need to settle the breadth of compensation in this regard. Second generation and immediate family issues will be addressed through further negotiations.

Bob Watts: When we talk about the ability to access programs, they should also be available to immediate family members. This is something that is going to be on the table in future negotiations.

Q/C: I agree we have to forgive – I'm learning to forgive. As long as I did not forgive, I remained a victim. When I was growing up on my reserve in Port Renfrew, the abuse of my mother and father was passed on me. I was born with a neurological disorder and did not speak until I was four years old. I failed grade one. They said "What is the matter with you, you stupid Indian?". When I was in residential school I had my ears boxed but I survived.

My sister was also extremely intelligent, yet we remain the scapegoats of our family because of residential school. I went on to obtain a Degree and then a Masters Degree. I'm also an advocate for missing women. Is the AFN considering investigating the issue of missing women? The AFN has a heavy burden on its shoulders, but remember you are our elected leadership. You are repressing our people – a $10,000 lump sum and $3,000 per year is cheap.

A: Bob Watts: The federal government is working with different groups to support missing women and the Native Women's Association of Canada received $5 million to help the missing women's cause.

Q/C: I don't see why the media are invited to the conference. The media should not have been invited to see and hear the tears. Canada and corporations make billions of dollars daily raping our resources. This is an insult to Canada and our People. And we want to settle for $10,000? What a farce. A poem was shared regarding the Downtown Eastside.

Q/C: This decision will have a monumental impact on our future forever. I don't want that on my conscience, knowing it is irreversible. These are monumental decisions that we are involved in. The residential school system is an atrocity for our people. You talk about an apology, what a farce. Canadians need to be educated, if not this will create racism. Let's build a case together that is strong, not rush a "drive-through settlement". Walk away from this deal and make a deal you can live with. First and foremost, BC is not for sale. Breach this deal.

A: Bob Watts: I agree with much of what you have said. That is part of the reason this session is structured to talk about all the different options such as legal options, negotiating a settlement, class action options, and education through truth. When people make these decisions, it is monumental. Our efforts require the best information possible - that is the purpose of this session. I agree these are monumental decisions that people have to make.

Q/C: I went to residential school in Pine Creek in the late 30s and 40s. I'll be 71 years of age the day after tomorrow. I thank you for being able to speak on behalf of the silent, those who have passed on. My sister who was seven or eight passed on, but will there be compensation for her? There are lots of things on my mind such as the question about the submission of claims. What is the deadline? Another question is about the lump sum money. Will it will it be making interest by sitting in a bank and being paid out on monthly basis? If so where does interest go?

I think the sick and elderly should be considered first. I'm diabetic and a prostate patient. What kind of paperwork is involved in making a claim? Also, I went through ADR process and was awarded about $30,000, but paid large amount in legal fees. I would like to be reimbursed for the legal fees.

A: Professor Llewellyn: About how long will claims be around for? I don't have answer but know there will be some finality. The report states the settlement process will end in 2010. But we anticipate that there will be a lot of notice before that happens.

Each person will get the lump sum all at once, the $10,000 lump sum plus $3,000 for each year. There would be no monthly or yearly pay out.

Bob Watts: Regarding legal fees on money awarded, we've heard that from a number of people. It will be on the table and we will develop a position on it.

Q/C: I spent 12 years being abused and two of my siblings passed away. It was like "Big Brother", they knew my life story better than I did. They had records of my counseling sessions, which were supposed to be in confidence. I want you to tell them to stop it; this is an invasion of my rights and of my freedom.

Is there anybody from the disabilities community on your team? You talk about the truth sessions, is there anyone there from disabilities community in these sessions? I think that's missing from the objectives here. One third of Aboriginal people in Canada have a disability and this is not being addressed. Also, youth disabilities are three times greater than the average in Canada. Consideration should be given to who you invite.

I have a comment for the National Chief. When you talked about going to the Pope's funeral, I took it differently. I'm very proud because he was there as an First Nation person from Canada.

A: Professor Llewellyn: It's extremely important for survivors to be at the front and centre of any processes. Attention must be paid to who is included and that diverse groups are properly represented. The Truth Commission needs to very attentive to inclusions and exclusions.

Bob Watts: There is no representation specific to the First Nations disability community but this will be put on the table.

Q/C: I'm here on behalf of myself and my four children. I've been here most of my life and was fortunate not to have to be sent to residential school. My question is about compensation. Instead of giving money, why not give to educational programs to teach about what happened to my parents and grandparents? I didn't know what was going on. I thought I was crazy because my mom didn't love me. Why not put money toward counseling and parenting programs to help us understand?

A: Bob Watts: In the report we talk about reconciliation, and we've made provision for exactly you're talking about in our proposal. To go further, some individuals have already received money and have set up education trusts for their children and grandchildren. We are mandated to deal with residential school issues, but there are things individuals and families can do too.

Q/C: But when are you going to do it?

A: Negotiations will take place over the next several months. There are programs that are reserve-based and urban-based. We are working on the truth process and reaching individuals as well as some of the more far-reaching issues.

Q/C: I spent eight years at residential school, along with eight of my siblings. We went through a lot of pain and abuse, saw our parents only in the summer, and were not really a family. A number of women from the Yukon went to a BC lawyer and were awarded $35,000 but $17,000 went back to the lawyers. The priests never apologized to us, and this is an issue. Fifty years have already passed for me, but it's a journey and a new beginning for me. A lot of people have suffered and a lot have died.

I look at our children, they suffer also. Residential school is over now but a new system is coming along, and it's the welfare system. We're native people and we need to work together and to encourage everybody. I've been sober for 10 years. The Lord touched my life and changed my life. No matter what happens, it's up to you to make changes in your life. Its tough and I still see the suffering of my brothers and sisters. Health, social impacts, and mental health have not been looked at. These issues need to pushed forward. Canada has to pay for all of this, and we have to stand and unite and tell the government this.

Q/C: When looking at the age group of residential school survivors, the average is about 60. So we have grown old in this very traumatic time in our lives. The elders are 60 and up. I'm 70 and have lived with this all my life. The elders in Surrey have created a society and discovered the needs of the elders are not met. What I'd like to see is that their immediate needs are met. These include housing, health, emergency response, doctors, dentists, transportation, and housekeeping support. There is also a lot of loneliness and despair. The elderly sometimes just need someone to visit and be part of their lives. I would like the AFN to lobby for funds specifically for aboriginal elders. They need your help. The $10,000 and $3,000 per year lump sum does not compensate for the eight years I was in jail.

Q/C: I was in a residential school in Litton, thousands of miles away from my family, and only saw them in the summer. We had to reunite again every time we saw each other. I encourage the AFN to seek fair compensation.

Q/C: I haven't seen any people from the Anglican Church. Where are they? I want to ask them some questions. I was in residential school for 10 years and lost my hearing. I'm now over 70 and what compensation am I getting from these hurts? These people don't know what happened in school. I was physically abused and went through hell in a place that was worse than a penitentiary. The food was terrible: stale bread, and porridge with maggots in it. We had to steal our food in order to survive. It's too bad the church is not here to answer my questions.

Q/C: I'm from Prince George. I have a question on my mind. I keep hearing "money grubbing Indians". I keep hearing about billions of dollars. I keep asking, what is the measure of a healthy tribe? We went from being a healthy tribe to a tribe that is diseased. We had beautiful homes, barns, and cows. We had aspirations and were a spiritual people. And now there is such negativity. What is the measure of economic benefits? The average income is $60,000 per year and poverty is considered less than $20,000. How does $1.43 million look? I think it is quite measly. The AFN should modify its position and have a new starting point to negotiate from. Speak the truth. Please let the public know what this has cost us.

The first thing that needs to be discussed is the amount of money that has flowed and how inadequate it is. There is no amount of money to repair the damage done.

Q People are going to treatment centres and talking about what happened at residential school. There's been suicide and abuse. People are hanging themselves. People go to residential school, get abused, and when they return to the reserve, they commit suicide. The treatment centres are not working. People go into treatment centres and when they get out they commit suicide. I'm also speaking on behalf of my sister who died of cancer, and my nieces and grandchildren. They are also wondering about compensation for the mothers who went to residential school.

Q/C: I think we cannot miss the opportunities that come to us. $10,000 plus $3,000 for every year is drop in bucket. Let's get serious. Whatever law is passed here, we should get 50 percent of the profits. We are the masters and owners of our country. It's not final. I think they should come to us and confess truthfully. Also, if we want to heal, men must accept the matriarchical society.

A: Bob Watts: Compensation payments related to issues around land and resource claims are ongoing and are still outstanding. The two are not connected, but what we are doing here does not disentitle you to pursue those other claims.

Q/C: I'm from the Cree Nation in northern Manitoba. My grandmother married a French man. He got sick, the marriage was annulled, the four children were taken away, and she was disenfranchised from going back to reserve. Is there any compensation for my disenfranchised grandmother or for her four children? I want compensation for my dad and my aunts and uncles.

A: Bob Watts: The package that we have proposed is for residential school students. The compensation package is meant to go forward regardless of status. We are working with organizations with respect to this. There is case law out there that looks at children who were disenfranchised by parents and for things they might have received as status Indians.

Q/C: I am very proud of the AFN for making our people across Canada more aware of these issues. It's always difficult to satisfy everyone. I'd like to thank my family who drove from Saskatchewan. We enjoy these sessions and have had the opportunity to meet old friends from Manitoba and Alberta.

In 1972 we had a reunion of residential school students. We were removed and very isolated. We produced the fuel and did all kinds of things to help the children survive the 10 months of the year. We did not get a good education because the teachers were not very educated and they spoke French. So we taught them how to speak Cree. Like many of you, we did not graduate and went back to the reserve. We then got jobs at mining companies because we had no education.

Over the past 30 years we've been devoted to improving our lives. We are going to make them pay somehow. We are the poorest people in the nation, that has been proven by research. Our jails are full of young people, those children are not surviving. We need to help these kids. I don't know if we can do it from the compensation, but we can try. We require resources for their development. Let's agree to work together. The white people think we cannot work together and that we can never agree. We can agree. We may not get the best deal but we have to address these issues.

We also have to address issues around the elders. There are health symptoms that residential school has caused, like decreasing immunity and overall health. People are suffering from cancer and heart problems. Also we must keep in mind there are 87,500 people out there, and some cannot speak for themselves.

Most of the perpetrators are dead now, but will the church or government have information we can use if we decide to go to court or seek compensation? Residential school students are now 65

or 70 years old. We need to ensure the government or other organizations will provide information about the perpetrators.

A: Professor Llewellyn: Access to information is important. South Africa got search and seizure power. I don't know if our government would take something like that seriously, but we certainly need the proper powers to obtain that type of information.

Bob Watts: One of the recommendations is that the government should divulge information that is within their control.

Q/C: One of the things I'd like you to think about is honorariums for the people in the past. I had a brother who was 14 years old at residential school. We were talking and he said "I can hardly wait to get out of this hell hole and I'm going to tell everything". I think something happened and he got scared. They did something to him. He hung himself at 14, how could that happen? One week before he was talking about graduation, could hardly wait to get out, and that he would tell everything. Well he did not get the chance to tell everything. So how far back do we go? There were 16 in our family and now there are four, all died by about the age of 22. When I look at the family tree just from my grandparents on, there were 46 in the family and 38 of them went to residential school.

Commemoration is another thing that needs big consideration. I had three brothers in 1997, and they all started to disclose. Over the next two years all three of my brothers died. I would like to give them all headstones, a big feast, and a picture showing. I would like to be able to afford that. Even myself, I drank for 20 years and that's where the suicide came in. I didn't want to live. I am my own person now, I've quit drinking. When any of my brothers or sisters died it was so painful they all drank, some drank themselves to death. It's not only me; it's everybody who's lost somebody. This should be kept in mind when asking how far back to go because we are not the only ones who have lost family members.

A: Bob Watts: The whole issue of commemoration and how it will be done is one of the issues being discussed. We will be talking about commemoration options such as monument, head stones, or a national park. Commemoration will be about everyone who ever attended residential school.

Q/C: I went to Fraser Lake Residential School. One time we ran away and the priests never looked for us. We had to walk all night until 3:00 a.m., and when we came back to the residential school they gave us 80 straps on the back and 100 straps on the hand for trying to run away. We couldn't lie on our backs because of the red marks.

I don't like talking about residential schools but I've heard this before. In Prince George they came when my brother was still alive. He died and what will they do about it? He has a tombstone, but will his kids get his compensation? What happens to the ones who have died before they received their compensation?

A: Professor Llewellyn: Once negotiations are complete we will have an idea of how far back compensation will be provided for. The recommendation is that the compensation would be provided to the individual's family if they are already deceased. The question is how to determine how far back they will accommodate those who are now deceased. The AFN position is to go back as far back as possible.

Q/C: I'm a survivor of a residential school in Litton. I'm here because of residential school, not because of your processes, because it's too painful to look at any of the things that have been set up to deal with compensation. Thinking about residential schools tears me apart. I had to fill out

the forms and remember all the incidents that went on when I was there. We were talking about timeframes and how long you went there – it doesn't seem relevant to me. Even if you just spent one day there it would affect you for the rest of your life. The moment my brother and I were separated it was over, our family was over, our language was over, out culture was over – everything was gone.

If you want to know how far to go back then go back as far as when the residential school started. This vicious struggle has gone on for generations and will continue. I'm terrified that my kids will go through what I went though, in losing my language and pride, spending 20 years of my life drunk and dragging my daughters along for 13 of those years. One of my daughters won't even speak to me – for six years. One daughter stuck by me, she saw me falling many times but liked that I picked myself up again. The timeframes mean nothing, that's irrelevant. All I'm concerned about is the future generations and ensuring that my daughters don't pass this on to the future kids. You can't measure these things.

We're all at different points in our healing. I've been involved since the mid-80s and I'm still terrified about what I might do. I have two brothers who are dead, one from suicide and the other from an overdose. My sister shot herself. She was also a victim of that whole scenario even though she didn't go to residential school.

My relationship with my family is nonexistent. We try, but it's very awkward. I find it hard to go home. It was hard to forgive my mother because I thought she sent me there because she didn't want me. But as a single mother with six children, I understand now that she sent me there because she thought it was the best thing for me. I learned way later that she wanted the best but that's not what we got – we got shame, degradation, and a feeling of not belonging anywhere.

When I listen to everyone's stories it's my story too, and it helps me because I don't feel alone.

In regard to forgiving the people who hurt us, I can't focus on that because I'm trying to focus on forgiving myself for what I did to my daughters, my mother, and my friends. I don't trust anyone and keep everyone at arm's length. Right now I can only work from inside and on forgiving myself.

Q/C: How long will we keep on going with this route for First Nations? The first thing is respect. We have a lot of respect, but the government doesn't have respect for First Nations, especially survivors. I wrote a book that I mentioned the other day. I wrote the book but didn't publish it – on how I survived.

World trade is for all people in the world, including First Nations. Where's the food on the table? Where's the clothing? These are the issues that are coming forward. World trade is not coming to our table.

I have an invisible disability – I am hard of hearing with tubes in my ear. I went to residential school healthy and came out deaf. That's abuse. Why are we dealing with the government and the churches? Why is the Royal Family not here to hear our stories? I'm talking for every individual with disabilities, especially residential school survivors. I hitchhiked here and it made me think about why I am here. Why am I not being helped?

When you talk about resources, that means language, land, and culture. So many people are trespassing on these areas. These are the three things the government and other organizations need to consult with us about in regard to compensation. About the $10,000 and $3,000, what about the resources they took out, millions and millions and billions of dollars taken from BC?

There are a lot of reserves, rivers, and mountains on these BC lands. We need to save our culture and our future generations. So how are we supposed to teach our children when they rape the land and there is nothing left there? It hurts me but I'm still here. And there are other people who hurt.

My brother had three kids and one grandchild and I need to know if they're going to be compensated. Also, I think the residential school survivors with disabilities should be looked after first. Every residential school survivor needs support with health issues.

Q/C: I was in residential school on Cape Breton Island. The question I have is, how can you pay the price for what a nun and priest do to you at residential school? Where is the justice? When I was sent to Father Collins I did not know what sin I'd committed. When you are three or four you do not know what sex is about. It's a sin the way this country runs. I've been in the program for 30 years. My story is very harsh and I do not want to talk about it. I do not have an education and was in three institutions after residential school. I work doing sewing and cleaning but cannot read or write. I do not understand and do not know where to go. I need help, for my children's and grandchildren's sake.

APPENDIX 9 – Staff and Volunteer Notes of Breakout Sessions

The following is a compilation of the staff and volunteer notes of the breakout sessions that occurred on the afternoon of Day 2 of the Conference. For ease of reference comments have been organized into the three breakout session topic areas of: Priority Payments for the Sick and Elderly; The Apology; and Truth, Reconciliation and Commemoration.

TOPIC AREA: "Priority Payments for the Sick and Elderly"

The "Elderly"

"Do you support the principle that the elderly be given priority in receiving compensation?"

YES! The principle is that the sick and elderly should be given priority in receiving compensation.

"What factors should be used in defining the elderly for the purpose of compensation?"

Responses offered included:

- poverty high (among former students);
- consider lowering the age (poor health status) – should be 50 years and up;
- some at the age of 60 are in worse shape than those that are 80 years plus;
- criteria should be "how ill is a person?" not by age – go to the health professionals;
- will the money be passed on to their heirs if they should die before money comes?;
- we should think about those people in retirement homes;
- look at health determinates, i.e. hostile environments (poverty, etc.);
- database should include ages;
- prioritize the elderly;
- I've been taught to look at the Elders 85 years old;
- look to Survivors for feedback; connect to grassroots people;
- Elders are defined differently in different communities; and
- find a balance

Defining "Elderly"...

Responses offered included:

- 75 years;
- start compensation for those who attended residential schools between 1910-945, 1945-1955, etc.;
- 60+ years old is fair;
- residential schools survivors should be given a disability pension;
- identify residential school survivors and compensate them $1,000/month;
- 85 and over is 2%;
- what is the elderly pension age?;
- take a staged approach dealing first with survivors from the 30's, then 40's, then 50's, etc.; if you went to school in the 30's to 50's you should be automatically on the list;
- the government has statistics on life expectancy but we need to take into consideration the different life expectancy for First Nations.

The "Sick"

"What factors should be used in defining the sick for the purpose of compensation?"

Responses offered included:

- not just physically sick, include mentally sick, emotionally ill, etc.;
- we'll spend more money just trying to define who's sick;
- for survivors who have died, their family will receive the compensation;
- document residential school experience stories before they die, so that family can receive the compensation;
- there's difficulty in defining illnesses, especially psychological;
- government is making us categorize, putting us against each other, we're expected to prioritize each other, we were the First People;
- what about missing people?;
- simplify the form to add illness, and have it signed by a doctor;
- chronically ill and the disabled;
- for those sick they should get doctor's papers quickly; and
- HIV/Aids patients get sick really fast.
- terminally ill people, i.e. those with Cancer, Diabetes, HIV/AIDS, Arthritis and Cardiovascular diseases;
- doctor's certificates (general practitioner, specialist, nurses, healers);
- people with disabilities;
- health issues related to certain addictions;
- suggestion to make health categories including: terminal, long-term, disabilities, and mental;
- complications of injuries sustained in residential schools (i.e.: malnutrition);
- people at risk of certain diseases (i.e. benign cysts);
- people with more than one disease might be a separate category, in terms of payment timing;
- there shouldn't have to be a burden of proof, when it comes to being sick; it should just be a fact that they are sick, and there will be a time factor due to that;
- separate health from addictions; and
- everyone who has gone to residential schools, should not have to prove that they are sick to get compensated, they may be sick in a way that is not traceable by a doctor of any sort – all mental sickness are not traceable.

"What other factors should be used in determining the sick and the elderly?"

- the two should be the same; there is no guarantee for how long you will last if you are sick; priority should be given to the people who are elderly and sick; a lot of the people from the 60's are not well, so it's one and the same;
- life expectancy by geographic area should be considered.
- suggestion that people 80 years and older should receive their payments right away – it's a strategy to get the government committed to making payments by getting them started;
- when you are taking about 80 year olds we don't have any 80 year olds left in our nation;
- we should give to people who are 60 and older – period; we don't know what life expectancy is;
- 60 plus should be paid right away (¾ of group agree);
- the period between 1930's to 1955 should be a stipulation;
- request to change the period to include the 1920's;
- a person's quality of life should be taken into consideration;
- a medical opinion should be used; and
- psychological/mental illness should also be considered (i.e. suicidal tendencies, etc.).

TOPIC AREA: "The Apology"

Do you agree with the principle that the real settlement of this issue requires a true significant apology from government? What elements need to be included in a true and significant apology?

Comments from session group participants included:

- there should be an apology;
- the apology should take place in Parliament;
- the apology should be delivered by the Prime Minister recognizing the harm and abuses done to First Nations through Residential Schools, with the heads of Churches present; Survivors should be also be present;
- the apology should be followed by a ceremony;
- each community should also receive a personalized apology;
- an apology is not enough;
- support an earlier suggestion that all of the department agencies and the Queen should come together to apologize;
- hope the Catholic Church will own up to an apology – it has done major damage to the students;
- I'm not ready to accept an apology because of the way our spirituality, given to us by the Creator, was totally ignored;
- when my grandchildren are able to speak Cree, then maybe then I will consider an apology;
- the apology is really needed for our people; there are still some who haven't admitted to themselves that they were abused and that's why this apology is needed for all of us;
- the apology has to include ceremony where the people come together and the government participates in the process with us;
- in order to be sincere, all the people responsible for the residential school process should participate;
- the apology needs to be symbolic and a process in place where we as First Nations people can recognize it – through our cultural ceremony;
- an apology should include apologies to our children as well because they suffered;
- the apology should address survivors' alienation, i.e. they were alienated when they were in the "white" society and they were alienated when they went back to the reserve;
- the Queen has to come forth with an apology from the heart;
- there needs to be an apology from the Chief Justice of the Privy Council in London who drew up the first draft of the Residential Schools and thereafter Residential Schools showed up in many countries;
- in Canada, the Prime Minister and all former Prime Ministers should apologize; the commissioner and previous commissioners of the RCMP should be responsible as well; the other person responsible is the Governor General of Canada; the apology should say governments – referring to the Canadian and British governments;
- the government needs to state that its act was genocide; the courts need to make that statement as well;
- no apology will ever take the pain from me.
- an apology could be divisive to our people too; we have to follow our own ways; the fundamental principle of reconciliation is based on respect for identity of who you were, who you are, your traditions, culture, you as a member of a family, you as a community and also as a member of a nation;
- if you are going to issue an apology then mean it; the present draft apology does not acknowledge that there was a crime against humanity; leaders have been tried for these types of acts (i.e. Sadaam Hussein);
- the Crown in Right of Canada is responsible and we signed treaties with these people;
- Canada should be tried in the International courts in Hague;

- if Canada is going to make an apology, the apology should be accompanied by actions, i.e. restoration of our laws, and our cultures; they have to give us the opportunity to store and reinstitute our institutions;
- apologize to my children and grandchildren and say that this will never ever happen again because we signed peace and harmony treaties with Canada;
- all parties must come forward and make an apology in our own languages, not in English, all heads of government (i.e. Premier of BC, Mayor of traditional territories for the city, former Prime Minister Jean Chrétien, Prime Minister Paul Martin) and the church including all the nuns and priests;
- Pope Benedict 16th needs to make an apology;
- an apology as it means that you are ready to forgive and move on; I do not accept that; an apology means that you are starting to shut things down – I am not ready to forgive; let's have real acknowledgement by talking and enacting our rights that are entrenched in the treaties (i.e. rights to health, etc.);
- an apology is a big laugh to me; an apology means nothing to me as I had to survive on my own since I was six years old;
- the only apology that they can give me is through action and paying for all of the injustices suffered by our people; I do not accept apologies;
- it would be an apology through action if the government of Canada got rid of the *Indian Act* and fulfilled all of the outstanding treaties;
- I want an apology but I want the cycle of abuse broken;
- I want an apology from all parties involved (the government, the churches and the Crown in Right of Canada, the Roman Catholic Church and others who had a part in that in all that has happened to us);
- there has to be some good faith on part of the government and the churches – they have to really mean that they want to work with us; good faith can mean a lot of things to people;
- we need to have the acknowledgment of what happened to us, i.e. destruction of our languages and cultures; you can come up with a list of a thousand things; then they can apologize for all the things they did and then state that this will never happen again;
- who is going to apologize for my uncle who died at residential school with a broken back?
- I agree with an apology; an unequivocal apology from the churches in the front page of all newspapers; and an apology from the bishops in each one of our communities; a national strategy to deal with the churches must be in place;
- elements of an apology should include that the churches are part of the apology along with government; future generation need to be addressed; the apologies have to go to our people who have passed on and the suicide victims; ensure that the Catholic Church owns up to that responsibility;
- we need to ensure that the message is actually given to the new Pope;
- I am not ready for an apology; we need to have freedom to choose our own healers;
- the apology should include the development of a task force to help families stay together; if our people are to move forward we need to heal and to see our kids back with their families and not in foster homes;
- the apology can't be a blanket apology; there has to be many apologies for loss of language, culture, etc.; I do not want future generations to carry our baggage;
- there is a sense of hopelessness and helplessness within our people and we are passing that down to our children and our grandchildren; we have to give them some hope and it may be in a way of an apology but we have to give them hope; we have to carry these messages back home;
- a matter of an apology will be difficult because we are at different phases in terms of healing; I do not expect the Queen to apologize and don't expect her to be part of my healing; I want a government official and the Pope of the Roman Catholic Church to apologize and for there to be a public residential schools inquiry;

- an apology to me would include giving me back my territory; we need a land base so that our people do not have to go on welfare and so they can manage their own lives;
- the lands that were taken by the Catholic Church is an issue that should be addressed as well;
- an apology should continue to include funds for community healing i.e. through the Aboriginal Healing Foundation; and
- the apology needs to be ongoing over a span of years so that it is not forgotten.

TOPIC AREA: "Truth, Reconciliation and Commemoration"

Points raised in discussion included:

- it is important to bring forth the concerns from our communities;
- there is a crisis situation in the communities with high rates of suicides;
- important to support the five-fold approach;
- we need to deal with truth and reconciliation to help our children to address the effects of the residential school issues;
- it is important to create awareness;
- all survivors need to be compensated, but it's very hard – not everybody is able to talk about their experience;
- there is no justice, the violator is in prison but has all the amenities such as TV, computers, recreational facilities, etc, whereas the victim doesn't;
- healing is very critical to young people and to all communities;
- it is important to tell your story as it is very powerful;
- the support in the story telling may bring us to forgive, but it may not; verbally the forgiving can be done, but the heart is not always willing;
- we need to have spirituality otherwise nothing will work;
- when one is in so much pain, it is difficult to talk about truth and reconciliation;
- we do not hear about the truths from the governments and churches;
- we are still in different places in the healing process; sometimes memories are triggered by hearing someone else's story;
- like the five-fold approach but it needs to have a unit analysis (disruption of the family and tribal process); there has to be reconciliation with the extended family;
- need to develop a curriculum for the public to understand the residential school issue; it should be made mandatory through provincial law;
- we carry the burden for what happened, we suffered because we were aboriginal, but we survived because we are aboriginal;
- need to go deeper in the truth telling; it is important to talk about how each of us have carried on after leaving the residential schools; how you have affected the community; this is where healing really begins; personal experience includes what happened after residential school;
- reconciliation begins by acknowledging who I am, where I come from and forgiving myself, then dealing with family, then the community and finally the nation;
- to improve the process, it is important to take responsibility, it's important to deal with the issue at the local, regional and national levels;
- need to learn to walk to the path of kindness;
- should have healing lodges to take control of our lives and to help one another, to re-educate one another, and to register traditional healers;
- agree with the process and am interested in the further discussion of truth and reconciliation;
- the commission for truth is only worth while if it will let our children know the real truth about what happened to us there; if they only want to apologize then it's not even worth trying; nobody needs <u>just</u> an apology;

- two individuals out of the 100 people in attendance did not support the truth telling, reasons included: there were individuals that were ill prepared for the process; the process must include the intergenerational; there needs to be safeguards to protect against what may happen after the lump sum payments, etc.

Further comments regarding the Truth and Reconciliation included:

- Indian Act is a violation of international law not telling the truth of who we are is not right; the Canadian system and the *Indian Act* will not let us heal; apprehension of children is a Canadian law that continues to violate our rights; International Law might be an avenue for us to pursue;
- community programs on how to break the silence are needed;
- funding and training on residential schools should be included in the compensation package for communities;
- compensation for residential school issues including educational and medical care is critical;
- a monument built in the community for residential school survivors is needed so that the children will be aware of this history (i.e. a memorial wall where reconciliation meets forgiveness for those that have passed on);
- commemorate the resilience of survivors;
- communities must be helped to find a way to bring out the survivor's stories as it makes them stronger to overcome their fear and shame;
- communities must be supported to deal with the Truth and Reconciliation;
- many survivors find it difficult to trust;
- need more support for men who are not able to come forward; more role models are needed for boys; the AFN needs to recognize the imbalance and help to create opportunities for men in the communities;
- accurate information is needed in schools about aboriginal people;
- parenting classes are required in the communities;
- compensation should be provided for the deceased;
- Canada must be held accountable for the genocide;
- intergenerational abuse has to be addressed;
- group workshops should be offered in the communities to help the community to deal with the residential school issues with the support from Elders;
- the church took away language and identity; government must give them back by providing 100% funding;
- information on cultural responsibility needs support and program funding (i.e. to reintroduce our languages, traditions, foods, etc.);
- lump sum is not the answer;
- there should be no cap on funding and the time frame for the process;
- there is need for self-education regarding how to deal with healing before going to community/nation;
- commemorate those who have passed on;
- churches need to be aware of the residential school history;
- we need programs for future generations and ongoing funding such as the government did for Japanese-Canadians, i.e. a community fund for programs to help children of survivors;
- establish a council of traditional healers;
- educate federal cabinet regarding residential schools;
- national group of aboriginal survivors with provincial representation from across Canada where people can tell their stories safely;
- use BC Residential School Society (Bobby Joseph's group) and expand;
- support the principles of Truth and Reconciliation;

- need to bring back cultural traditions such as using the land in healing processes; need to record our histories; use aboriginal scholars and lawyers to create a new healing road;
- do not want the church to coerce involvement but rather have good partnership;
- need to have a holistic approach to deal with the residential school strategy;
- want to face offender to do truth telling;
- Canada has to acknowledge and forgive self;
- acts of atrocity should not be forgiven;
- suffering should not be for nothing and should be used to rebuild communities;
- reclaim inheritance of our traditions;
- tell stories using the arts, i.e. theatre, and art therapy, etc.;
- approach native peers that you abused and apologize;
- put blame in the right place; forgive parents, hold feasts, etc.;
- rewrite history based on the truth and contributions of our ancestors;
- hold healing conferences for story telling;
- continue dialogue with five-fold process;
- meeting together is healing;
- obtain data on deaths in residential schools, including grave sites;
- provide compensation for loss of socialization, no childhood, no parental skills or role models;
- provide scholarships for students;
- ensure that there is national accountability for funding;
- compensation should be extended to three generations;
- create public awareness and create a public record; individuals living off reserve must be included;
- use technology such as the web-site;
- "We hear them talking about mental, physical, sexual abuse but not one is talking about the spiritual";
- truth telling isn't pervasive; make sure this does not cause tension;
- invite ministers to communities to hear about residential schools;
- the priority should be given to community members, elders, youth – to get information to our people first;
- truth telling – we don't understand anyone until we walk in their shoes;
- who is going to manage the process and how will it be managed? If it is AFN, what about the Métis, etc.?;
- we should network with other indigenous nations such as those in South Africa, Australia, etc.;
- truth and reconciliation is necessary;
- a curriculum should be developed to teach students about Residential Schools;
- commemoration could include a commemorative coin; monuments where each Residential school stood with the students' names recorded on a plaque; national ceremonies; stamps; and/or annual day dedicated to this "event", with monies available for different commemorative activities to take place.

TOPIC AREA: "Other Issues Identified"

Other issues raised in the breakout sessions for the AFN's consideration included:

- we don't know who will administer the distribution of payments but we want input on the criteria;
- the Inuit only went for shorter periods of time;
- money will never take away the fact that my mother didn't raise me;
- my mother also would like to choose her own healer, i.e. in our community; at present, the government dictates that she has to see a psychologist;

- we have to ensure that we look after our future generations; they are putting our children and grandchildren through the same process but in a different way; we have the Constitution and human rights legislation that can be used as a tool to help;
- the Quebec First Nation that speaks French as their second language don't feel heard;
- we signed up with a lawyer seven years ago and that lawyer has never done anything; we signed a contract and paid a retainer; last week we found out he was disbarred; will he or other lawyers step in to claim this $10,000 lump sum payment?;
- are orphans classified as residential;
- how do you access the records of the residential schools after it's shut down?;
- will there be an application process?; when should the doctor's certificates be sent in?;
- recognition of traditional healers is needed; there is no certification for these people;
- how do we keep track of the people who got sick because of residential schools, but are healthy now, and would receive a clean bill of health from a doctor now days?;
- how do you go about finding homeless people, who have attended residential schools, and people who have migrated to the U.S. – how will the AFN advertise?;
- the deceased should be compensated on the same base as for the living.

APPENDIX 10 – Recap Of Conference Presentations

Overhead presentation beginning with a slide titled "Some Points Where Greater Clarity is Needed".

APPENDIX 11 – AFN Survivor Database Form

AFN Survivor Database Form, distributed at the July 19-21, 2005 AFN National Residential Schools Conference.

APPENDIX 13 – Acronym Definition List

A	Panelists' Response(s)
AFN	Assembly of First Nations
AHF	Aboriginal Healing Foundation
IRSRC	Indian Residential Schools Resolution Canada
IRSU	Indian Residential School Unit
Q/C	Delegates' Question(s)/Comment(s)
RCAP	Royal Commission on Aboriginal Peoples
THR	Truth-Sharing, Healing and Reconciliation

This is Exhibit "H"
to the Affidavit of Larry Philip Fontaine
Sworn Ontario, 2006 July 28, 2006

Commissioner for taking affidavits

Assembly of First Nations
Indian Residential Schools Unit (IRSU)

Residential Schools conferences of meetings attended by the IRSU
From May 1, 2004 to December 31, 2004

Month	Date	City	Province	Meeting
May 2004	May 18-21	Saskatoon	SK	AFN Confederacy
June 2004	June 18-20	San Francisco	California	Child Sexual Abuse/Restorative Justice
	June 20-21	Calgary	AB	IRSRC Working Caucus
July 2004	July 6-10	Edmonton	AB	Aboriginal Healing Foundation Residential School Conference
	July 19-23	Charlottetown	PEI	AFN Annual General Assembly
	July 26-30	Driftpile	Alberta	Healing our Spirit Residential School Conference
August 2004	August 2-6	Punnichy	SK	Gordon First Nation Residential School Conference
	August 17-18	Ottawa	ON	AFN Residential Schools Working Group meeting
	August 24	Norway House	MB	Assembly of Manitoba Chiefs meeting
September 2004	Sept. 11	Sioux Lookout	ON	Sioux Lookout Residential Schools Conference
	Sept. 16	Whitehorse	YT	Council of Yukon First Nations Annual Assembly
	Sept. 20	Fort St. James	BC	AFN Emergency response support services
	Sept. 23	Vancouver	BC	BC First National Summit
	Sept. 28	Ottawa	ON	AFN Health Technicians Meeting
October 2004	Oct. 6	Edmonton	AB	Chiefs Assembly of Alberta
	Oct. 8	Saskatoon	SK	FSIN Health/Social Development Commission
	Oct. 13	Calgary	AB	Alberta Health Authorities
	Oct. 16	Dawson City	YT	Residential School Presentation
	Oct. 28	Winnipeg	MB	AFN Working group briefing on ADR report during the AFN Health policy Summit
November 2004	Nov. 9	Montreal	QC	Quebec & Labrador Chiefs Assembly
	Nov. 29	God's River	MB	Residential Schools presentation
December 2004	Dec. 1	Kenora	ON	Residential Schools Survivors Gathering
	Dec. 7-9	Ottawa	ON	AFN Special Chiefs Assembly

LARY PHILIP FONTAINE et al. Plaintiff	and	**THE ATTORNEY GENERAL OF CANADA** Defendant	Court File No: 05-CV-294716CP

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding commenced at TORONTO

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