

Residential Schools Update #10—June 29, 2001

Archdeacon Jim Boyles, General Secretary

Litigation Update

Summary of Litigation Filed against the General Synod

(as of June 23, 2001)

Number of plaintiffs involved in cases which name the General Synod directly:		Number of plaintiffs involved in cases where the Federal Government has named the General Synod as a third party:
Ontario	29	0
Manitoba	102	0
Saskatchewan	220	261
Alberta	314	116
BC & Yukon	144	9
TOTAL	809	386

Combined Total : 1195

Of the total, the General Synod is named as a third party in 32.3 % of these claims. These figures exclude potential class actions.

A. British Columbia

- i. **Lytton 1:** The appeal in the Mowatt case is proceeding slowly, and may be heard by the BC Court of Appeal in late fall.
- ii. **Lytton 2:** The trial in the Aleck et al case was completed in February and we are awaiting a decision. Out of court settlements were reached with four plaintiffs where the General Synod and the Diocese of Cariboo were involved because of the government's action in naming us as third parties. Agreement was reached with the government that it would not seek our portion of the settlement until the later of the conclusion of the talks with the Deputy Prime Minister, or the final resolution of the Mowatt appeal.

Only one of the four plaintiffs remaining in the trial had named the church bodies directly. We are involved in the other three because of government third party action. There is no indication when a decision will be announced.

- iii. **Lytton 3:** The Phillips trial, set for June 4 has been adjourned indefinitely. Efforts to reach an out of court settlement have failed. The General Synod is not ready to settle until an effective validation process is undertaken.
- iv. **St. Michael's, Alert Bay:** The first trial involving multiple plaintiffs is scheduled to proceed in mid-November.

B. Alberta

- i. We have received over 700 interrogatories (questions) from the plaintiffs' lawyers to which we must respond. The Archivist, Terry Thompson is devoting most of her time to this work over the summer, leading to a significant reduction of service to the public in the Archives.
- ii. There are no cases scheduled for trial this year.
- iii. An appeal has been heard involving a case where the Roman Catholic Church was identified as a body that could be sued.

C. Saskatchewan

In mid-May a judge dismissed a case against the General Synod and the Diocese of Qu'Appelle. Known as the I.B. case, the only issue at trial would have been the apportionment between the Crown and the church bodies. Since the Crown failed to use all the defenses it has put forward, the judge dismissed the case. The government had asserted that the claim was barred because of time limitation, but had not advanced that defense. It is acknowledged by all parties that I.B. had been abused, and he has received payment from the government.

D. Manitoba

There is little action in those cases filed in Manitoba.

E. Ontario

- i. After consultation, the plaintiff's lawyer in the Cloud case (Mohawk class action application) requested that the General Synod be removed as a defendant. In early June a two-week hearing was held on the application to certify the class. No decision has been announced. The Diocese of Huron and the New England Company remain as defendants along with the Crown.
- ii. Other cases continue at a slow pace.

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Healing and Reconciliation Fund

The Healing and Reconciliation Fund of General Synod launched its wide-ranging program of initiatives and interventions in affected indigenous communities in 1992. This year marks the completion of 10 years of continuous activity, with the cumulative total of funds dedicated to programs and activities reaching \$774,304.

Projects earmarked for support during the 10-year operation of the fund span nine categories of activities, as follows:

o Diocesan Initiatives	\$100,950
o Community Projects	\$124,750
o Conferences / Gatherings	\$247,083
o Counseling and Therapy	\$ 15,180

o Resource Development	\$ 30,441
o Training / Workshops	\$205,100
o Translation	\$ 15,800
o Youth Gatherings & Programs	\$ 17,500
o Other	\$ 17,500

In total, Healing and Reconciliation Fund activities have been launched in 26 of the country's 30 Anglican Dioceses. Over the 10-year span of the Fund, the biggest recipient of fund contributions has been the Diocese of Keewatin, followed by the Dioceses of Rupert's Land, Cariboo, New Westminster, Algoma and Saskatoon.

During the current year, 14 projects are being funded for a total of \$153,230, representing the largest annual total in the history of the Fund. During the two previous years, the number of individually-funded projects was greater but the dollar amount was less.

This year's Healing and Reconciliation Fund projects include:

- An ambitious training program in New Westminster for counselors and therapists in trauma recovery;
- A program to establish linkages between urban and rural reserve communities aimed at fostering belonging, community, hospitality and self-esteem in Rupert's Land;
- A joint Anglican - United Church inner-city youth internship program, also in Rupert's Land;
- The relocation of three sacred burial sites, together with support for 10 Elders to travel and officiate at the ceremonies of commemoration, in the Diocese of Calgary.

Discussions with the Deputy Prime Minister

Since the last Update (March 30) these discussions have continued. Mr. Gray received a mandate from Cabinet in mid-May. A new Office of Indian Residential Schools Resolution has been established, with Mr. Jack Stagg as its Deputy Minister. This Office will now handle all aspects of the residential schools litigation and negotiations with the churches, as well as discussions with aboriginal groups involved in this subject.

In late April, the House of Bishops met in Niagara Falls and decided to write to the Prime Minister, seeking his personal involvement because the talks with the Deputy Prime Minister seemed to be stalled. The bishops also wrote to all Anglicans to express their frustration with the government and to again state their commitment to

- the pursuit of justice for those whose lives have been damaged by abuse at the schools
- the ministry of healing among the indigenous peoples of Canada

"We regret that the federal government has not faced squarely its major and primary role in promoting the policy of assimilation of the First Nations peoples, and its major responsibility for the policy and operations of the residential schools system."

On May 3 the Officers of General Synod met by teleconference and asked the Primate to urge Anglicans to again contact their MPs to register their concern as follows:

- Our desire to continue our presence and ministry with the indigenous people of Canada
- Our disappointment at the lack of any progress in the discussions with the Deputy Prime Minister
- The continuing aggressive approach of the Department of Justice which is forcing the General Synod and some dioceses to bankruptcy
- The urgency of our financial situation as our resources are rapidly diminishing

The Bishops also decided to send a delegation to Ottawa to register their concerns. The Primate, Archbishop Finlay of Toronto, Bishop Phillips of Rupert's Land, Esther Wesley, Indigenous Healing Fund Coordinator on national staff and the General Secretary met with the Deputy Prime Minister on May 17. We learned at this meeting that Mr. Gray had received the mandate from Cabinet a few days earlier. The discussion was intense, with both sides expressing strongly held positions. Archbishop Finlay assessed the meeting as follows:

"We are still waiting for more details setting out the proposed government approach to the new level of negotiations. In spite of this, we felt our meeting with Mr. Gray was positive and demonstrated goodwill on both sides."

Following the meeting the Primate wrote to Mr. Gray inviting him to address General Synod on July 5. Mr. Gray declined due to previous commitments.

On June 1, representatives of the Ecumenical Working Group met with Mr. Gray and were introduced to Mr. Stagg, who comes from the Department of Fisheries and Oceans where he had been involved with issues of aboriginal rights on the east coast. He has had 20 years' experience in the Department of Indian Affairs. Little was revealed, however, about the terms of the mandate Mr. Gray had received. The government is now ready to enter 'negotiations' with the churches, and is prepared to work with the churches together or separately, as appropriate.

Mr. Gray, and later Mr. Stagg stressed the need to conduct the negotiations in a confidential manner. While respecting the need for such an approach, the churches have stated clearly their need to keep leaders and membership informed of progress in the talks. Regular reports will continue to be made to the Bishops and Officers, and regular updates to membership will be made.

On June 22, Mr. Stagg visited Church House to meet with the Primate and some staff to become better acquainted with us. This was part of a series of meetings with the various church bodies. It provided an opportunity for us to present the Anglican picture to him, and to press our urgent concerns.

On June 27-28, Mr. Stagg met with representatives of the four churches to begin the detailed negotiations. The General Synod was represented by the General Secretary and Ms. Donna Bomberly (substitute for Bishop Gordon Beardy). The dioceses affected by lawsuits were

represented by Bud Smith, Chancellor of the Diocese of Cariboo. The dioceses not affected by lawsuits were represented by Bob Falby, Chancellor of the Diocese of Toronto.

The meeting sought to build on common ground and to begin work on several issues, including "apportionment" of compensation. There was also discussion about the role of survivors and the larger aboriginal community in the resolution process.

The meeting established a number of working groups, and agreed to meet three times during the summer months, each meeting being 2-3 days, with a view to moving the discussions forward as quickly as possible.

General Synod Financial Position

Thanks to the commitment of the dioceses, the ongoing program of General Synod is sustained. Proportional gifts are continuing as estimated in the 2001 budget last November, with a few dioceses remitting in advance, which assists greatly with the cash flow. None of these funds are used for legal fees. The Anglican Appeal continues, and we expect Anglicans to support it generously. The Appeal, likewise, supports ongoing mission work of General Synod, particularly in the North and overseas.

The General Synod is spending approximately \$100,000 per month on litigation costs and related matters. After surveying the nine dioceses involved in litigation, we find that total costs (including 2000 and estimates for 2001) for General Synod and the dioceses are just under \$5M. Of this amount just over 1% has been paid to claimants.

In May 2000 we informed the government that General Synod would run out of liquid assets by the end of 2001. That prediction remains on target, although we are attempting to reduce the outflow of legal costs. The Officers have deferred a decision on the seeking of creditor protection under the Companies Creditors Arrangements Act (CCAA).

In the light of this financial situation, the Officers have reviewed the assets now held by General Synod, particularly the Anglican Book Centre and the Archives. Although no decisions have been taken, studies are in progress as to the possible sale of these assets so that they would be available in the future for the service of the church.

The Officers have also been reviewing the situation of the Anglican Journal. Since its circulation is tied to that of the diocesan newspapers, steps are being taken to ensure its continuing publication if General Synod were to cease to exist.

The redevelopment of Church House property is proceeding. It is expected that work on the new building will begin soon. It represents an important non-liquid asset which is required for any future work of the General Synod.

Because of the uncertainty about the General Synod, plans for a feasibility study of fundraising opportunities have been delayed.

Diocese of Cariboo

The Diocese of Cariboo has made several attempts to engage the government in dialogue about its pending winding up. There has been no response, and the diocese is faced with immediate steps it must take to move in this direction by October 15. Provisions for pastoral oversight have been made in the event that the diocese ceases to exist.

General Synod, Waterloo, July 2001

As General Synod meets, there is much uncertainty about the future of its life. The Primate's address to Synod will touch on this situation. There will be a presentation on recent developments early in the Synod. Three separate hours are set aside to discuss 'planning for the future'. The Financial Management and Development Committee will be presenting a resolution setting a time beyond which agreement with the government will not work for us, and we will need to take steps to wind up our operations.

Prayer

Perhaps it is best to conclude with prayer. Here is the prayer set for General Synod 2001:

Holy One,
you catch us unawares
and accompany us on the way,
offering healing, reconciliation and the new life.
Open our ears
to recognize your voice,
that we may turn and see the living Body of Christ.
Open our hearts
to accept your word from the cross -
"forgive them, they know not what they do".
Strengthen our wills
that we may commit our past and future life together to you,
and begin again;
to the glory of Jesus Christ, crucified and risen,
in the power of the Holy Spirit. Amen

Distributed to members of:

- General Synod
- House of Bishops
- Anglican Council of Indigenous Peoples
- Financial Management and Development Committee
- Mission Co-ordination Group
- Residential Schools Steering Committee
- General Synod Staff