

support, all Anglican members are called to participate in efforts towards justice, healing and reconciliation. It is an expression of being part of the Anglican family.

What are the next steps?

The agreement is before the dioceses for ratification. Several dioceses are calling special synods in January or February to discuss the agreement and reach a decision.

What can I do to help?

Making an effort to understand the complex issues behind the agreement is an important step for all members of the Anglican Church of Canada. This is a significant moment for our church.

Your continuing support for the church is vital. It enables an Anglican mission and ministry that makes a difference both at home and abroad. Our gospel challenges us as followers of Christ to seek the healing of those who are broken and of communities that suffer brokenness. Canadian Anglicans have risen to this challenge before. They can do it again.

Contributions to the Settlement Fund may be made through your parish or diocese.



A publication of General Synod Communications

This booklet is available for download at www.anglican.ca.

Printed copies may be ordered from
General Synod Communications
600 Jarvis Street, Toronto, ON M4Y 2J6
416-924-9199



Towards a New Beginning

Understanding the
proposed Settlement
Agreement between the
Federal Government and
the Anglican Church of
Canada dealing with
Indian Residential
School Abuse claims

Introduction:

On Nov. 20th 2002, the federal government and the Anglican Church of Canada announced an agreement on how they would share liability arising from Indian Residential School abuse claims. General Synod, the church's national legislative body, sees the agreement as enabling the whole Canadian Anglican Church to respond justly and humanely to the legacy of abuse stemming from its participation in the residential school system. It will also ensure the future viability of the church so that it can focus on the mission and ministry that is its primary calling. The agreement limits the church's share of compensation to former residential school students with validated physical and sexual abuse claims at 30 per cent, to a maximum of \$25 million. The agreement must be ratified by the 30 Anglican dioceses across Canada.

This booklet has been produced to explain the agreement and to provide some history and context.

Historical Context:

The Indian Residential School system dates back to the 19th century. It was part of a government policy aimed at assimilating indigenous people. Four Christian denominations – Roman Catholic, United, Presbyterian and Anglican – participated in the system by operating various schools.

While most school staff were dedicated and caring individuals and while many former students describe their school experiences as positive, the system began to be seriously questioned during the 1960s. As a result of its extensive review of residential schools, the Anglican Church had stopped participating in the system by 1969 and began working towards a new relationship with indigenous peoples.

In 1993, on behalf of the church and on the advice of the National Executive Council, Archbishop Michael Peers, the Primate, extended a formal apology for the unintended harm done to indigenous peoples as a result of the residential school system. Collectively, the church has acknowledged the legacy of abuse that stemmed from its participation in that system. In many ways and on many fronts, the Anglican Church has been working to effect justice, healing and reconciliation. This has been a difficult and painful journey. Since

for the national church will have to be created. This would result in disruption for years. No agreement means that very little if any funds will reach victims of abuse. It also means a major setback for mission and ministry, including to the church's goal of healing and reconciliation with native peoples.

An agreement is critical to ensuring the stability of the national church and the dioceses facing litigation. It is also essential for the hope, credibility and integrity of all Anglican members.

Why is an agreement needed if a recent court decision ruled that General Synod was not liable for residential school abuse claims?

While a Court of Alberta ruling in October 2002 dismissed lawsuits against General Synod and the dioceses of Athabasca and Calgary relating to residential school abuse claims, General Synod believes it is important to reach a settlement based on both financial, moral and practical reasons.

The Alberta decision will likely be appealed by the federal government and could be overturned by a higher court. Even if higher courts rule in favor of General Synod and the dioceses, church organizations would face considerable legal costs as the matter winds its way through the legal system. Lawyers have also warned that the decision may not be considered relevant in other provincial jurisdictions. Thus, even with the Alberta decision, General Synod and the dioceses still face the prospect of considerable legal costs relating to residential school abuse claims if there is no agreement. General Synod also believes that it is important that Anglican organizations endeavour to make a legitimate contribution to settlements and to continue to work towards healing and reconciliation with aboriginal communities.

Why should Anglicans today support an agreement meant to address harm done by a system that they had little involvement in and of which they may even have been ignorant?

Taking responsibility for the actions of the past is not an easy matter – yet we know it is consistent with our belief in the unity of the church. At this historic moment, the whole church is challenged to confront injustice and contribute to healing. That is at the core of the Christian gospel. Dioceses that are strong and face no litigation are called on to support those that are weakened by litigation costs. Through their

This proposed agreement makes the Anglican Church the first of the four denominations to settle with the government; as such, there is a “grandfathering” clause so that the Anglican Church will benefit from any more advantageous terms negotiated by the other churches.

Questions and Answers:

Why is the agreement good for the church?

It enables the church to move forward in a way that addresses its moral obligations to the past and allows it to face the future with integrity and renewed hope, creativity and energy – and without the burden of litigation that has weighed it down for many years. By responding to the legacy of residential schools abuse in a way that is just and humane for claimants, acknowledges its shared responsibility as a church, and ensures the viability of the church, the church will once again be able to focus on the mission and ministry that is its primary calling.

Reaching agreement will facilitate the justice, healing and reconciliation that continue to be our primary goals. It will mean that money goes to compensate former students with valid abuse claims rather than being used up by litigation costs. It means that the 2,200 claims from students of Anglican-associated schools can be expedited, particularly if the government can put in place a streamlined alternative dispute resolution process.

It also means that the church will join with aboriginal groups in pressing for a programmatic response to the issue of loss of language and culture.

Through General Synod, Anglicans participate in a ministry of socially beneficial work across the country and internationally. We believe that Canadian Anglicans want to continue to participate in that ministry and will therefore support an agreement that ensures General Synod’s viability.

What if the agreement is not ratified?

Without an agreement, General Synod and several of the 11 dioceses facing litigation may use up all their resources in litigation costs and cease operations. If General Synod ceases to exist, a new expression

1992, General Synod’s Healing and Reconciliation Fund has made more than \$1 million in grants to local aboriginal communities for healing programs. The Anglican Council of Indigenous Peoples was established to help provide direction to the evolving relationship between the church and indigenous peoples. In 2001, General Synod adopted an extensive plan committing the church to a new partnership with indigenous people. Known as *A New Agape*, the plan focuses on five key goals: self-determination, justice, healing, historical reparation, and walking in partnership.

Responding to Claims:

In the mid 1990s, many former residential school students began filing claims against the government and against organizations affiliated with the denominations that helped run the schools. Eventually, the government faced about 12,000 residential school abuse claims. In addition to allegations of sexual and physical abuse, which are found in 90 per cent of the claims, allegations relating to issues such as loss of language and cultural were also advanced. Church organizations became involved in some cases, not by being named by claimants but because they were “third-partied” (or named as a defendant) by the government. Anglican organizations have been named as defendants in about 18 per cent or 2,200 of the total claims. In addition to General Synod, 11 dioceses have been named as defendants as have the Missionary Society of the Anglican Church of Canada and the New England Company.

Resolution of these claims has been very slow. As of late 2002, there had been more than 560 settlements and 12 court judgements. While most claims have yet to go to trial or be validated, the legal costs associated with responding to claims has created a huge burden on General Synod and the 11 dioceses named. General Synod has paid for litigation costs from existing assets, rather than from diocesan contributions; with litigation costs running at about \$100,000 a month, there are now very few assets left to draw on.

In an effort to determine how to share responsibility for validated abuse claims, the government had, for several years, been meeting with a group of representatives from the four churches. The purpose was to negotiate a settlement agreement that all parties expected to participate in compensation could live with. A major concern of the ecumenical group was that the rate of compensation demanded of the

churches not be set at a level that would exceed their ability to pay, thereby driving religious organizations into bankruptcy. Many participants felt little progress was made during these talks. In October 2001, the government announced it would offer 70 per cent of agreed-upon compensation for validated claims of abuse in instances where both the federal government and a church organization were involved in the operation of the school. The remainder was to come from the churches. The churches took this announcement as a sign that the government was prepared to decide on its own what level of compensation churches would have to pay. In December 2001, faced with a depletion of assets, the Anglican Church began negotiating with the government on its own.

Members of the Anglican negotiating team were: Archbishop David Crawley of Kootenay; Bob Falby, Chancellor of the Diocese of Toronto; Archdeacon Larry Beardy of Manitoba, and Archdeacon Jim Boyles, General Secretary of General Synod. The team was supported by lawyers John Page of Toronto, Peter Whitmore of Regina and Jerome Slavik of Edmonton. Rob Dickson, chair of the national Financial Management and Development Committee, and General Synod Treasurer Jim Cullen provided support on financial issues.

The Church's Goals:

Three goals have guided the church since negotiations began:

- Justice, healing and reconciliation – justice for the victims whose lives were scarred by physical and sexual abuse, but also healing and reconciliation for all members of the church;
- Survival of church organizations so that the vital mission and ministry of the Anglican Church of Canada, both at home and abroad, can continue
- Closure and an end to the litigation that has been costing the church so much money, less than two per cent of which reaches victims.

The Proposed Agreement – Key Features:

The agreement announced on November 20 was arrived at after 15 negotiating sessions and does the following:

- Caps Anglican liability for sexual and physical abuse claims to a maximum of \$25 million;
- Establishes a \$25 million settlement fund under Anglican auspices

to pay the Anglican share of compensation to victims. This money will go directly to victims with validated claims of physical and sexual abuse. Once the fund is exhausted, General Synod and the dioceses will be relieved of further liability with respect to physical and sexual abuse claims, and the government will pay all of further compensation;

- Ends Anglican involvement and outlay for litigation in sexual and physical abuse cases. Although the church reserves the right to be involved, its involvement is expected to be more pastoral than legal;
- Encourages alternative dispute resolution processes that are humane and rigorous;
- Encourages a programmatic approach by both the government and the church in response to loss of language and culture.

The settlement is based on the fact that all parts of the church share a moral responsibility to address the abuse suffered by native people as a result of Indian Residential Schools. As such, the agreement requires all 30 Canadian dioceses to contribute to the fund, rather than just General Synod and the 11 dioceses that have been sued.

The money is to be raised over five years with General Synod contributing \$3 million. Each diocese's contribution is expected to be proportional to its current level of support for General Synod.

Loss of language and culture are not currently recognized by the courts as a "cause for action". The church believes that claims for language and culture are best handled through a programmatic responses by church and government (such as language programs and counseling) rather than through cash payments. Under the agreement, both the government and the church will defend against such claims, though the government will bear the major costs. As well, if any liability is found for the church, it will be assumed by General Synod rather than the dioceses.

During implementation of the agreement, any disputes that arise between the government and the church will be referred to an Implementation Steering Committee, consisting of one member each from church and government. The committee will work in good faith to resolve issues privately and through consensus. If a consensus cannot be reached, the committee may elect to engage in mediation.