

## HISTORICAL OVERVIEW

### DIAND'S RELATIONSHIP TO THE ABORIGINAL PEOPLES OF NEWFOUNDLAND AND LABRADOR

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Newfoundland and Labrador

#### INTRODUCTION TO HISTORICAL BACKGROUND

- 1.0 This is a historical sequence of events from the 1949 Terms of Union Agreement to separate agreements for Conne River, Inuit and the Innu by 1989.

#### HISTORICAL BACKGROUND

2.0 *The Confederation Era, 1947-1953*

- 2.1 In 1947 a federal delegation tabled a report entitled "A Preliminary Statement Regarding the Position of Newfoundland's Indians and Eskimos in the Event of Union". It recommended that the federal government have sole responsibility.

- 2.1.1 The rationale for this recommendation was based on Section 91(24), the Indian Act of 1876 and the 1939 Supreme court Decision Re: Eskimos.

- 2.2 By October of 1948, unauthorized discussions between R.J. Carter, Nfld Secretary for Natural Resources and Major MacKay, Director of Indian Affairs in Ottawa, had taken place. Focus of the talks were on which government would assume responsibility of Nfld/Lab aboriginals.

Carter felt that the application of the Indian Act "...based as it was on a notion of wardship, would be a retrograde step..."(Harris Reports). The rationale for this was that Newfoundland aboriginals could vote; there were no reserves and intermingling had taken place.

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- 2.2.1 Smallwood objected to these discussions but was persuaded to accept Carter's view by MacKay. These discussions ended in consensus that the province would assume administrative responsibility, subject to appropriate federal grants and subsidies. }
- 2.3 Consequently the 1949 Terms of Union Agreement made no mention of aboriginals. Premier Smallwood considered all occupants of Newfoundland and Labrador to be citizens of the Province, all with equal rights. Smallwood did not want to create a legislated separate class of citizens. Aboriginal people were not consulted about union decision. }
- 2.4 Yet from the Terms of Agreement of 1949, Clause 3 set forth the application of the British North American Acts to the new Province of Newfoundland. They would apply as they would to any other province in Canada at the time of Confederation.
- 2.5 Ottawa officials sought legal clarification. On April 14, 1950, the federal Deputy Minister of Justice gave the legal opinion that the Indians and Inuit residing in Newfoundland and Labrador were in the same position with respect to the British North American Act, Section 91(24) as were Indians and Inuit in other parts of Canada.
- 2.6 Despite the 1950 Justice opinion, on March 28, 1953, Walter E. Harris, Minister of Citizenship and Immigration reinforced the position of the federal government concerning the aboriginals of Nfld/Lab.:
- "...there is no legal requirement for the Federal Government to assume any responsibility whatsoever, either financial or administrative, in regard to the residents of Northern Labrador..."
- 2.6.1 The rationale for the federal position was because Newfoundland aboriginals were not registered "Indians" under the Indian Act. }

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- 2.7 Despite Harris' stance of non-responsibility for Nfld/Lab aboriginals, Canada reimbursed Nfld, fully, for relief and health programs provided to Indians and Inuit of Northern Labrador. Through the departments of Resources and Development and Citizenship and Immigration, Canada paid for years 1950 to 1954, \$21,000 and \$13,000 per year total for Indians and Inuit respectively.
- 2.8 Similarly, from 1951 to 1954 National Health and Welfare reimbursed Nfld for medical expenditures for Indians and Inuit of Northern Labrador in the amount of \$65,000 total per year.
- 2.9 Growing health problems (Tuberculosis epidemic), provincial political pressure, gaps in federal and provincial funding and growing acknowledgement of "some" federal responsibilities for Newfoundland aboriginals, led to talks of a better arrangement.
- 3.0 *1954 Agreement*
- 3.1 Cabinet in 1954 approved a program which committed Canada to take on broader federal responsibilities for aboriginals of Labrador. The agreement was accepted informally through an exchange of letters between Secretary of State, Jack W. Pickerskill and the Nfld Minister of Public Welfare.
- 3.2 The program called for a cost sharing agreement between Canada and Nfld based on a 90/10 relationship. Federal contribution towards each community was dependent on the percentage of Natives in each community. Contribution was 90% in Indian communities and 66 2/3 of Inuit communities. This relationship would be applied to non-recurring capital expenditures for health, welfare and education, not to exceed \$200,000.
- 3.3 The program said individual projects Nfld wanted to undertake were subject to federal approval.

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- 3.4 Also, federal responsibilities were established as fully covering medical costs related to transportation, hospitalization and treatment for aboriginals of Northern Labrador. This was in conjunction with the anti-tuberculosis drive of this period.
- 3.5 All other financial and administrative expenditures not covered by capital and medical were included in this agreement on the same cost shared basis.
- 4.0 *Federal Resistance*
- 4.1 Near the end of the agreement gaps in jurisdiction emerged once again.
- 4.2 On March 21, 1962, Minister of Citizenship and Immigration, Ellen L. Fairclough, reiterated the federal position on aboriginals of Nfld. She stated that at the time of union with Canada, the Indians of Nfld had been fully enfranchised and as such the federal government bore no responsibility to them.
- 4.3 But the enfranchisement policy of the federal government had always involved a choice. The Metis of Western Canada were given the choice of surrendering their status, but the aboriginals of Nfld/Lab were never given the option to choose.)
- 4.4 Once again the Deputy Minister of Justice reaffirmed Canada's responsibility for Nfld aboriginals in 1963. The DM's opinion was that because there was no mention of aboriginals in the Terms of Union Agreement, this only meant that the federal government's constitutional responsibilities towards Nfld/Lab natives had not changed compared to natives in the rest of Canada.

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5.0 *1965, 1970 and 1975 Agreements*

- 5.1 In 1964, Premier Smallwood asked Prime Minister Pearson for financial aid in providing services to Indians and Inuit. Pearson's reply culminates in an agreement to federal reimbursement for provincial expenditures regarding aboriginals.
- 5.2 The exchange of letters leads to a 1965 federal-provincial cost sharing arrangement that would continue and be renegotiated in 5 year intervals.
- 5.3 The 1965 agreement calls for federal share of 90% to be applied to the percentage of natives living in the communities to be serviced. 100% of Indian communities of Northwest River and Davis Inlet and 66 2/3% of Inuit communities of Nain, Makkovik, Hopedale and Postville. Rigolet added subsequently in 1967. The concept of "Designated communities" is implied in this agreement.
- 5.4 Pearson also instructs Smallwood to assemble a federal-provincial committee to renegotiate and assess the agreement.
- 5.5 In 1970, the agreement is renegotiated and the budget is increased from \$1 million to \$1.5 million per year.
- 5.6 Community of Black Tickle is added in 1972 to the agreement and subsequently dropped in 1980. The Inuit and the Innu accused the Province of charging services for Black Tickle to Inuit and Indian accounts knowing that there were few or no aboriginals there.
- 5.7 Conne River added to list of designated communities in 1973. With the addition of Conne River, the budget is increased federally.

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- 5.8 In 1973 native involvement in the federal-provincial committee is approved. Two representatives from each of the three native groups are added to the committee, Federation of Newfoundland Indians (FNI), Labrador Inuit Association (LIA) and Naskapi-Montagnais Innu Association (NMIA).
- 5.9 Agreement renegotiated in 1975 with budget increased to \$4.5 million per year federal contribution.
- 5.10 Community of Mud Lake added to the 1975 agreement and subsequently dropped in 1980
- 6.0 *Recent History*
- 6.1 In 1976, Davis Inlet, Northwest River and Conne River request to be registered as Indians under the Indian Act.
- 6.2 Atlantic Regional Office takes over management of the agreement in 1977.
- 6.3 January 3, 1978, Minister of DIAND, J.H. Faulkner said that he did not want any further registration until Conne River Agreement finalized.
- 6.4 In 1980, Premier Peckford wrote to the Minister of DIAND, John Munroe, saying it "would not be in the best interest of the communities" to have registration. Indian Act registration rules would divide communities and add to their frustration, in Peckford's opinion.
- 6.5 As of 1980, the original 1965 Native Peoples of Nfld/Lab Agreement only applied to the Inuit and Innu as Conne River were negotiating their own agreement.

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- 6.6 Conne River signed its own separate agreement in July of 1981. Total amount of agreement was for \$5.05 million, 90% federal, 10% provincial over 5 years.
- 6.7 In 1982, the Labrador Metis Association was formed. It represents "any person who has mixed Native and European Ancestry, originally from Labrador". They seek recognition, funding and services from the federal government as an aboriginal body. They are currently considering a land claim with the federal government.
- 6.8 Conne River Reserve established in 1987.
- 6.9 In July of 1989 the Inuit and Innu signed separate federal-provincial agreements thus setting the standard in Nfld/Lab of three separate and distinct tracks of policy.
- 6.10 The Federation of Newfoundland Indians was founded in 1972. Originally they represented the Innu, Inuit, Conne River and Micmacs outside of Conne River. Today they only represent the Micmac outside of Conne River. In 1989 the FNI filed a lawsuit against INAC charging discrimination resulting from non-recognition and non-registration by the federal government.

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