



## Report of the Task force on Aboriginal Issues

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*Task Force on Aboriginal Issues*

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### **Preface**

We are pleased to present this final report of the Task Force on Aboriginal Issues. The experience of facilitating a process, which we hope will lead to improved relations between the provincial government and the Aboriginal people of New Brunswick, has been both fascinating and frustrating. After meeting with dozens of groups representing a significant cross-section of New Brunswick society, we have come away from our task feeling hopeful that a healthy dialogue between Aboriginal people and the provincial government is not only necessary, but possible.

We present this report with a clear understanding of its limits. Those who seek a formula that will magically solve the longstanding issues that exist between the province and Aboriginal people will be disappointed. However, for those who are seeking ways in which to begin healing a wounded relationship, we trust our recommendations will be helpful.

### **Background**

From an historical perspective, New Brunswick cannot claim any particular success in dealing with Aboriginal people in the province, but neither can New Brunswick be characterized as an out-and-out failure. David Milne, in his comprehensive report, *The Case of New Brunswick-Aboriginal Relations*, prepared for the Royal Commission on Aboriginal Peoples in January 1995, states that "In many respects, New Brunswick-Aboriginal relations are not ... dissimilar from

those prevailing in most other provinces in Canada: caution and a reluctance to move decisively on Aboriginal issues on the part of the province; frustration by Aboriginal people at the glacial pace of change." Mr. Milne's document provides excellent background on the nature of the relationship between the Aboriginal communities and the provincial government in New Brunswick.

Like most provinces, New Brunswick has deferred to the federal government in questions of jurisdiction and fiscal responsibility, citing the federal government's fiduciary responsibility for the Aboriginal people in the province. Aboriginal people, as well, have relied upon section 91(24) of the Constitution Act, 1867, which clearly points to federal responsibility for Aboriginal land and peoples. Where issues have been seemingly unsolvable, the reaction of both the province and the Aboriginal communities has been to seek resolution in the courts. As well, given very strong egalitarian roots in both the government and public service, the province has been reluctant to introduce "special programs" or to encourage the development of policies or a policy framework that might be seen to favour Aboriginal peoples.

While there has been limited success in dealing jointly with issues in some areas, notably social services and education, the relationship between the province and the Aboriginal people has been very strained in recent years. Several events have contributed to the prevailing adversarial and mistrustful mood: the defeat of the Charlottetown Accord 1993; the entrenchment of Bill 88 recognizing the rights of the English and French communities in the Province's constitution, but not the Aboriginal community's right to self-government; the province's refusal to accept the establishment of casinos on reserves; and the acrimonious debate over the provincial sales tax.

From the perspective of an Aboriginal person in New Brunswick, the words spoken by then Chief, Dr. Albert Levi in 1993 perhaps still ring true; "The words of government are so very sweet, but the taste in the mouths of the Indians is very, very bitter."

It should come as no surprise, then, that New Brunswick's Aboriginal people, buoyed by Justice Turnbull's October 28, 1997 decision in the New Brunswick Court of Queen's Bench in *R. v Thomas Peter Paul*, which allowed them to harvest wood on Crown Land, experienced a sense of renewed hope.

From the Mi'kmaq First Nation at Fort Folly to the Maliseet First Nation at Madawaska, New Brunswick First Nations saw an opening in an area which, for one reason or another, had been closed to them. Aboriginal harvesters on and off reserve went to work. Some experienced gainful employment for the first time, while others began to build on past experience with an eye to longer-term opportunities.

Over the winter months of 1997-98, the province launched an appeal of the Turnbull decision, but recognized that the status quo would no longer be acceptable either to the Aboriginal people or to the other citizens of the province.

In January 1998, federal Minister of Indian and Northern Affairs, Jane Stewart, took an historic step by launching *Gathering Strength*, part of the federal government's response to the 1996 Report of the Royal Commission on Aboriginal Peoples. The Minister said

"the time has come to state formally that the days of paternalism and disrespect are behind us" and "...we are committed to changing the nature of the relationship between Aboriginal and non-Aboriginal people in Canada."

But what came as an even more dramatic turn was the federal government's statement of reconciliation that followed. It is against this backdrop of a collective recognition of past wrongs and a desire to mend a tattered relationship that the provincial government in New Brunswick began to feel its way around the complex issue of harvesting wood on Crown Land by Aboriginal people.

### **The Crisis in the Forest**

In early May 1998, then Premier J. Raymond Frenette asked us to act as facilitators in a process to try to improve the relationship between the province's Aboriginal communities and the provincial government.

This relationship, which had been awkward at the best of times, had become increasingly strained following Justice Turnbull's decision. A number of Aboriginal New Brunswickers not only viewed the decision as offering them the opportunity to legitimately harvest trees from Crown Land, but as an opportunity to participate in an economy from which they had been largely excluded. Other New Brunswickers, especially those with business interests in the forest industry, viewed Justice Turnbull's decision in a different light. Some saw it as an opening in the otherwise rigid management of Crown Lands in New Brunswick, while others felt that employment opportunities for non-Aboriginal people were threatened. Accordingly, public response to the issue was as emotionally charged as it was varied and intense.

As the warmer months of spring 1998 approached, tensions between Aboriginal communities, the Department of Natural Resources and Energy and major players in the forest industry grew dramatically. Newspaper reports carried headlines like "A hot time in the woods" and many media carried stories describing confrontations and unrest. The coverage extended to media outlets across the country and the eyes of the nation were focused on the forests of New Brunswick. Under great media scrutiny, Aboriginal loggers, Aboriginal Leaders, First Nations Chiefs and the provincial government were under increasing pressure to arrive at workable solutions to the crisis in the forest.

Premier Frenette recognized the need to open a dialogue with the First Nations leadership and invited Chiefs to meet with him in Bathurst on March 30, 1998. At this meeting, the Chiefs presented the Premier with a number of issues and concerns they felt should be addressed as a group in future sessions. These included: Aboriginal treaty rights, economic development, education, health care, job creation, training, taxation, Crown Lands and resource management. It was agreed that the group would meet again.

On April 20, 1998 at St. Mary's First Nation, a subsequent meeting was convened at which a process for arriving at a negotiated and workable solution of the issue of access to Crown Land was discussed. It is important to note that there was confusion about the agenda for this meeting. Some participants, including the Premier, Ministers, government officials and a few Chiefs, came to the meeting with the understanding that a process for negotiation was to be discussed, but others assumed that other issues identified at the Bathurst meeting were also to be addressed. This meeting ended in a virtual stalemate.

On April 22, 1998, the New Brunswick Court of Appeal allowed the province's appeal and reversed the judgment of Justice Turnbull, resulting in the conviction of Thomas Peter Paul. Essentially, Mr. Paul's claim not having been upheld, the province found itself in a position of having to enforce the law, but given prior events, this proved to be contentious. Following this decision, Premier Frenette continued his efforts to bring the parties to the table to craft an agreement on access to timber on Crown Lands for Aboriginal people. On several occasions, the Premier called for calm and a resumption of talks between the Aboriginal loggers, Chiefs and the Province. Premier Frenette also engaged Assembly of First Nations National Chief Phil Fontaine and federal Minister of Indian Affairs Jane Stewart in discussions with some members of the Aboriginal community. Despite many meetings, some private and others public, a negotiated, long-term agreement was not achieved.

On May 2, 1998, the Honourable Camille Thériault was elected leader of the Liberal Party of New Brunswick and was sworn in as Premier on May 14, 1998. In his remarks during the swearing-in ceremony, Premier Thériault reiterated his government's commitment to improve its relationship with Aboriginal people.

While the majority of First Nations have signed interim agreements with the province allowing a share of five per cent of the Annual Allowable Cut (AAC), a long-term agreement regarding the harvesting of timber on Crown Land has not been reached. Moreover, the other issues raised by the Chiefs in Bathurst have yet to be addressed.

### **Mandate**

The mandate of the Task Force as approved by Cabinet was very broad. It reads:

Two facilitators will consult and make recommendations on the best way to negotiate a long term harvesting arrangement as well as on how the provincial government alone, or the provincial and federal governments together, could best address the other issues of importance to the Aboriginal community of New Brunswick. The facilitators will have an undefined period of time to consult and make recommendations. However, during this period, regular progress reports from the facilitators to the Premier will be required.

It was made clear, however, that we were not called upon to participate in the negotiations of interim agreements, a matter we repeatedly underlined during our consultations. Despite this, the expectations placed on the Task Force grew as interim wood harvesting agreements with the First Nations communities were signed. In some cases, the Department of Natural Resources and Energy included such wording as "this agreement is in effect until the Task Force submits its report to the government". The Task Force was not consulted on the wording of these agreements.

Clearly, DNRE's interpretation of the mandate put the Task Force in an awkward position. Not only was a report expected, a fast and ready solution to the issue of harvesting on Crown Land was also anticipated. However what the Task Force was asked to do was facilitate a process, not to come up with a definitive solution.

The reasons for this are straightforward: the Aboriginal communities in New Brunswick have felt that the provincial government, in particular, imposes its will on them and if resistance is met, the government seeks the Court's sanction. In many public statements made by then Premier Frenette, any solution to the harvesting issue was to be negotiated by the leaders of the Aboriginal communities and the provincial government.

It was stated by Premier Thériault during a May 27, 1998 news conference launching the Task Force that we were not negotiators, but we were to hear the concerns of Aboriginal people at the grassroots level. This role has evolved to include some advocacy work on behalf of several Aboriginal communities. As well, we have attempted on a number of occasions to encourage linkages between federal and provincial government departments, professional and industry groups and the Aboriginal communities. We have also found ourselves informing Aboriginal communities of certain programs and services available from the province and alerting the province to certain projects and situations in Aboriginal communities.

As publicly stated by premiers Frenette and Thériault, and later echoed by many Ministers, the nature of the relationship between the provincial government and the Aboriginal communities is characterized by deep mistrust. Consequently, one of our most challenging tasks has been to assure the Aboriginal communities of our personal sincerity, the ultimate usefulness of their participation in this process and of government's intentions to consider our recommendations and implement them when feasible. The greatest challenge facing the provincial government is to overcome the enormous barriers that mistrust has created.

### **Who we have seen**

Beginning in late May 1998 and ending in December 1998, the Task Force held over 60 meetings with Aboriginal communities, the Aboriginal People's Council, the Union of New Brunswick Indians, the MAWIW Council, the Native Loggers Association, First Nations and their leadership, Aboriginal women, elders and youth, forest industry representatives, environmental groups, professional organizations, provincial and federal officials and government leaders. It should be noted that we attempted to meet with the New Brunswick Native Indian Women's Council on a number of occasions, but were unsuccessful. The Task Force has also received a number of written submissions from the Aboriginal community and other groups and individuals.

For the most part, meetings with Aboriginal communities were gatherings in which community members were encouraged to tell us how they felt about any issues of concern to them. In keeping with our intention to make participants feel as comfortable as possible and to build trust with the communities, we did not encourage media coverage of our activities. We often referred to the list of issues that came out of Premier Frenette's meeting with the Chiefs on March 30, 1998, but clearly identified the areas in which we had no authority, i.e. any matters currently before the courts, Aboriginal treaty rights and land claims. In some cases, communities were in the process of studying the province's interim harvesting offer, and this often became the focus of our meetings.

Our reception by the Aboriginal communities was always open, respectful and hospitable. Although some preliminary clarification was needed regarding things such as our mandate and the role of the Task Force, we were made to feel that our presence was appreciated and that this dialogue was an important step in beginning to mend the rift in relations between the Province and Aboriginal communities.

Our meetings with industry and professional organizations were very useful in assisting us to understand the nature and background of forest management practices in New Brunswick and elsewhere. Repap, J.D. Irving, St Anne-Nackawic and Fraser Papers Inc. all took the time to give us their views on the current situation on Crown Land. They also discussed the scope of their operations, forest management practices and philosophies, and the changing face of the global forest industry.

We met with representatives from the New Brunswick Forest Products Association (representing the licensees), the New Brunswick Sub-Licensee Forest Alliance (representing the sub-licensees), the New Brunswick Association of Registered Professional Foresters, the Canadian Forest Service and the Maritime Forest Ranger School.

Dr. Gordon Baskerville, a respected academic and a former Deputy Minister in the Department of Natural Resources and Energy (1979-1982), kindly shared his vast knowledge and historical perspective on the management of Crown Lands in New Brunswick.

As well, with the assistance of the Atlantic Institute in Market Studies, we were able to spend a few valuable hours with Mr. Vern Bachiu of the Meadow Lake Tribal Council in Saskatchewan. He offered us a unique perspective on a very successful Aboriginal venture in the forest industry in his province.

The Conservation Council and the Protected Areas Coalition offered us their views on the management of the forest resources and the values they feel should be included in the Crown Lands and Forests Act.

Officials in the Department of Natural Resources, particularly Tom Spinney, Tom Reid and Dave MacFarlane were especially generous with their time, openly answered all of our questions and willingly provided us with necessary documents. Other departments were equally accommodating in explaining their programs and policies. We were also very pleased to have been able to meet with the Premier and many cabinet ministers.

Federal Departments such as the regional office of the federal Department of Indian Affairs and Human Resources Development Canada were very co-operative and explained their programs and their perspectives. Andy Scott, Member of Parliament for Fredericton and then Solicitor-General, also took time to meet with us.

### **What We Have Heard from the Aboriginal Community**

In general, the concerns raised by the First Nations Chiefs in Bathurst were reiterated to the Task Force. Access to jobs and economic opportunity, training, social issues, education, taxation, Aboriginal rights, the Ganong line - a demarcation between Mi'kmaq and Maliseet territory, Aboriginal representation in the Legislature, Aboriginal people in the civil service, the relationship between Aboriginal people and both levels of government -- all of these issues were raised.

There was general agreement that in some way, process or forum, the Aboriginal community and the province need to sit down together to address the bulk of the issues. While some of our meetings began with an assertion of Aboriginal title to the land, we were quick to point out that the question of title was one that could only be settled in the courts or through a land claims process involving the provincial and federal governments. We stressed that, in the meantime, there must be common ground on which to meet and discuss the many other important issues that had been raised.

Concerns and issues expressed by the New Brunswick Aboriginal Peoples' Council whose membership is drawn from Aboriginal people living off reserve, generally reflected those of other Aboriginal people. This particular group is further challenged by the fact that neither the federal nor the provincial governments claim responsibility for them. They are decidedly in a jurisdictional limbo. Despite these disadvantages, the Aboriginal People's Council has successfully run an off-reserve housing program and has played an active role in the Aboriginal food fishery in the province. The Council had also been engaged in a tripartite management committee with provincial and federal government representation that has not been active since 1997.

By all accounts, the Aboriginal population in Canada is growing rapidly. The growth in the off-reserve population is increasing at an even greater rate because reserve land and resources across the country are being severely stretched, forcing many aboriginal people to leave the reserve.

The concerns of this large segment of the Aboriginal community in New Brunswick were voiced by this group only - a dramatic indication of their struggle in having their concerns heard.

### **Jobs and Economy**

We were informed that, following the Turnbull decision, many Aboriginal people for the first time enjoyed a real sense of hope and purpose. Aboriginal men, women and young people alike found meaningful work in the forests. We heard anecdotal evidence of reductions in suicides in Burnt Church and Big Cove, and of reduced criminal activity and eased social assistance budgets in other First Nations. Conversely, we were made aware of the difficulty some Aboriginal people had in reconciling their traditional values with current harvesting methods and how some were not given access to the benefits of the resource.

On numerous occasions, we were moved by the presentations made to us. At one of our earliest meetings, we heard from an elder at the Kingsclear First Nation who said " my husband is disabled - he cannot cut, I cannot cut, our children cannot cut. Who will look after them? You can't pull down all those trees without considering me."

From another perspective, an equally moving presentation was in Big Cove where at a meeting with the women of the community we were touched by their emotional plea. Their heartfelt comments pointed to the positive changes in family life resulting from people being employed and making a reasonable living following the Turnbull decision. Less spousal abuse and family violence, reduced addiction problems because of increased self-esteem - all were a result of people going to work.

What came through most clearly, though, was the great and urgent need for more economic development opportunities and more jobs for Aboriginal New Brunswickers. We were encouraged to hear that some Aboriginal communities felt harvesting wood was not the quick-fix solution some thought it to be initially. Some looked to harvesting as a part of broader development plans which include the operation of mills and the production of housing units to be used by First Nations throughout the region.

In one case, a community was reluctant to sign an interim harvesting agreement because it felt it would not allow them to develop a longer-term plan for their First Nation. As recently as December 1998, some Aboriginal people felt that signing an interim agreement with the province would result in the loss of their Aboriginal rights even though the agreements were clearly to be entered into on a "without prejudice" basis. For example, the first paragraph of a draft agreement between the Province and the Fort Folly First Nation reads as follows:

Since this agreement represents a compromise concluded between two parties on "Without Prejudice" basis, it shall not be construed or employed to the detriment of either party in determining their respective underlying rights, or any rights or claimed rights which may have been foregone.

We were particularly impressed with the efforts of the Eel Ground First Nation. Over the past ten years, the people of this community have developed their own wood resources and have added value to the fibre they extracted from their own lands, or obtained through purchases from others. Steve Ginnish, an award-winning forester, has used his expertise to transform a small portable sawmill into a viable value-added operation.

Because of the astronomically high rates of unemployment in First Nations communities--some as high as 80%--the pressure on the leadership to create jobs is enormous. There is not only the public pressure from those unemployed, but the fiscal pressure as well. For First Nations leaders, as for any other government leader, job creation not only means happier constituents, but less burden on social assistance programs.

The social impact of job creation cannot be underestimated. In First Nations communities where unemployment rates are significantly lower, the sense of pride and accomplishment shared by community members is almost palpable. Building individual self-worth helps build community self-worth. A case in point is the small Bouctouche First Nation where unemployment is negligible. From commercial fishing to heavy machinery leasing and operation, the people here are actively participating in the local economy. The community is vibrant and takes pride in its heritage and traditions, so much so that it has developed a unique tourism product - "The Mi'kmaq Experience", which they are currently trying to market in Europe

### **Housing**

Not surprisingly, given the high unemployment rate among Aboriginal people, an acute shortage of housing was identified by a number of First Nations and by the Aboriginal People's Council. The Aboriginal sector of Canada's population is growing faster than any other segment and the demand for housing has increased accordingly. We have been advised of the need for 1,000 homes for Aboriginal people. In some communities the problem is made worse by a shortage of land.

Given the shortage of housing and the need to create jobs for Aboriginal people throughout the province, we asked the Department of Natural Resources and Energy how far the annual allotment of five per cent would go towards building homes. Their estimates show that approximately 4,000 homes could be built annually.

### **Public Attitudes**

Sadly, the economic plight of Aboriginal people in New Brunswick is not helped by some deep-rooted narrow-mindedness and negative public attitudes. Although the words were rarely uttered, we were made aware of incidents of racism and intolerance that are reminiscent of a sadder period in our history. Some Aboriginal New Brunswickers have been the victims of institutionalized bigotry both in the private and public sectors. In one case, the Task Force was shown photographic evidence of such intolerance. This issue takes on particular poignancy when discussing the Justice system. One First Nation Chief related with great emotion the difficulty he had trying to help a member of his community deal with the court system. The gulf that exists between the two cultures seems to widen upon entering the courtroom.

While the cultural differences between the Aboriginal community and the non-Aboriginal community are magnified in the courtroom, they are also evident in many other areas. The situation has not been helped by the negative light in which the Aboriginal people in New Brunswick are sometimes portrayed by the media. The people of Big Cove in particular were concerned about the fact that "they only report about us when the news is bad". A cursory examination of the print media in New Brunswick since April 1998 would support this point. Through our own personal observations, we note very few Aboriginal journalists in the province.

The gap between the Aboriginal and non-Aboriginal people of New Brunswick is only made worse by ignorance and serious misinformation. We referred earlier to the fact that some Aboriginal people felt that signing an interim agreement would jeopardize their rights. Others have made statements about the forest industry, in particular, which are totally unfounded. We were warned in one community that the province's wood supply would be extinguished in five years because one licensee alone used over 100 mechanical harvesters in the woods.

Misconceptions abound in the non-Aboriginal community as well. Many New Brunswickers mistakenly believe that Aboriginal people do not pay taxes and yet use services funded by taxation. What they fail to realize is that First Nations pay separately for many services New Brunswickers take for granted e.g. fire-fighting and road maintenance and plowing. As well, barring certain exceptions, Aboriginal people do pay taxes and those living off reserves pay property taxes, fuel taxes and other taxes just as other New Brunswickers do. Further to this, many non-Aboriginal New Brunswickers are unaware of the fact that according to the Department of Indian Affairs, the Aboriginal communities in New Brunswick contribute approximately \$80 million every year to the provincial economy.

Bridging the cultural gap will be a major challenge for the provincial government, Aboriginal people and the general public in New Brunswick. We have been encouraged by grassroots efforts to overcome these cultural differences, an example of which can be found in a recent exchange between a school in Riverview and the Big Cove First Nation where junior high school students from both communities learned more about each other.

### **Consultation and Aboriginal Involvement in Government**

Cultural differences have also added to the suspicion that characterizes relations between the provincial government and the Aboriginal people. Many question the provincial government's good faith and voice mistrust of government officials and the perceived heavy-handed way in which they interact with Aboriginal New Brunswickers. A common thread through our sessions has been the complaint that Aboriginal communities are not properly consulted when policy decisions are made at any level of government. As a result, policies and programs often do not take into consideration the cultural, economic and social values or differences that exist between the Aboriginal and non-Aboriginal communities.

An example of this is in the tourism sector. While the province is to be commended for its highly successful tourism programs, Aboriginal communities have found it extremely difficult to participate. Many of the guidelines for these programs are rigid, and, without the proper training and resources, Aboriginal tourism operators find it very difficult to meet the established standards. As well, guidelines do not take into account the unique nature of Aboriginal tourism products.

It should be noted that the province's success in the tourism industry did not occur overnight and a variety of programs have been directed at tourism operators around the province for years. Aboriginal ventures in tourism are a more recent development and have only been introduced into the province's tourism strategy within the past few years.

### **Public Service**

The question of consultation is multi-faceted: because there are no Aboriginal people working at senior levels in the Public Service in the province, Cabinet Ministers do not have the benefit of regular input from an Aboriginal perspective. Similarly, the Public Service itself rarely has the benefit of regular discourse on Aboriginal issues or from the advice of Aboriginal people. This problem was identified in many Aboriginal communities. The existence of the Equal Employment Opportunity program, although helpful in the eyes of some, is not supported by enough resources or legislative clout.

### **Representation in the Legislature**

Related to this is the issue of representation of Aboriginal people in the Province's Legislative Assembly. Several members of the Aboriginal community identified this major point, stating that their voices should be heard in this forum - one went so far as to say that Aboriginal representation must be the starting point in working towards solving the problems and facing the challenges of the Aboriginal community. It is right to say, however, that there is a considerable difference of opinion about the issue among the Aboriginal community.

### **Education**

Several communities voiced strong concerns about the amount the province charges for the education of their children, stating that the tuition costs for Aboriginal children was considerably higher than for non-Aboriginal children. However, concerns about education were not limited to the tuition agreements. Many Aboriginal people feel that their language, culture and history have been neglected by the province's education system to the detriment of their own communities and to all school children in the province.

It is generally accepted that language is the cornerstone of a strong cultural identity. Regrettably, there are cases where the Aboriginal language has been completely lost. Madawaska First Nation is a case in point; the Maliseet language is virtually extinct on the reserve. Other First Nations are working hard to preserve and promote their language by teaching their children in their First Nation schools.

There are only a few instances where Aboriginal children in the public school system are taught their language. While the federal government offers a heritage language program on reserves, there is only one Aboriginal language teacher who teaches in the public school system and is paid by the province.

In many First Nations, children are schooled on the First Nation through the elementary years and complete their schooling in the provincial school system. In some cases, Aboriginal children do not have access to the calibre of music, art and physical education programs offered in the provincial school system. This means that when they do enter the provincial system in the middle school years, they can be at a disadvantage.

It must be said, however, that there have been positive initiatives in New Brunswick through the aegis of the Department of Education. A number of these include a summer camp program that focuses on cultural enrichment for Aboriginal and non-Aboriginal students as well as a number of committees that include Aboriginal people who advise the department in areas such as departmental policy, language programs and curriculum development.

### **Social Services**

In the area of social services, the main concern identified is the disparity between the services available to Aboriginal people and those available to other New Brunswickers. Aboriginal people only need look to the nearest non-Aboriginal community to see the difference. Programs administered by the province for seniors, social assistance recipients and people with disabilities are not made available to people living on reserves.

Several chiefs expressed their frustration with having to provide social and educational services to non-Aboriginal people living in their communities and for Aboriginal people living away from the First Nation, without adequate funding. Often these people are not accounted for in the formulas through which the First Nations receive their funding from the federal government. This leads to grave, sometimes tragic, inequalities.

We were advised of a particularly disturbing situation in one First Nation community where a severely disabled child, living on the reserve, but not considered a status Indian, was being refused financial assistance for travel to the IWK Children's Hospital in Halifax by three levels of government. Again, this jurisdictional vacuum has a very human cost.

We contrast this with a similar situation that might arise of a resident of New Brunswick who lives on other federal land (e.g. CFB Gagetown). If needed, disability benefits from the province would be extended to such a person. It is difficult to understand why a person (Aboriginal or non-Aboriginal) living on a reserve - which is also federal land - should be treated differently.

Some valuable cooperative action has been taken in another area. Since 1983, the province and the Aboriginal communities have been working together in the area of child welfare. This partnership has improved the child welfare program on the First Nations and has provided a number of Aboriginal New Brunswickers, who have received a university degree in this field of study, an opportunity to work within their First Nation.

### **Taxation**

The issue of taxation was brought up on a number of occasions.

Aboriginal people living off reserve are subject to the same taxes as other New Brunswickers. Aboriginal people living on reserve do not pay property tax, including income tax on income earned on the reserve. This exemption was identified by a number of Aboriginal people as an impediment to their seeking employment off the reserve. Some Aboriginal people, we were told, are reluctant to accept jobs off their First Nation because of the reduction in their take-home pay through income tax deductions.

It is obvious, however, that there are insufficient employment opportunities on Reserves to meet the needs of those resident there and that the challenge must ultimately be met by employment off the reserve. This will become increasingly necessary because the population of Aboriginal people is expanding at a greater rate than the general population.

These difficulties invite consideration by the federal authorities, the provincial government and the Aboriginal leadership. We recognize, however, that the subject of taxation of Aboriginal people is a sensitive one and that a particular measure has a different impact from First Nation to First Nation. It is beyond the time and resources available to the Task Force to look into these issues but, in view of the comments received, we considered it right to bring attention to the matter.

On a related issue, it has come to our attention that the province uses its total population figures, including aboriginal people on and off reserve, in calculating its equalization and transfer payments from the federal government.

As well, other complaints of a quite different nature were brought forward by some Aboriginal people. These relate to difficulties encountered by excessive charges made by some businesses respecting deliveries to reserves. Difficulties arise because the sales tax exemption applying to Aboriginal New Brunswickers on reserves occurs only when goods purchased off the reserve are delivered to the community or when the goods are purchased directly on the reserve. This invites a reassessment by such businesses of the fairness of these charges and possible study by the federal, provincial and aboriginal authorities of such practices.

### **Health Care**

Over the last 10 years, many First Nations have developed health centres in their communities and some employ nursing professionals and doctors. Oromocto First Nation in particular is hoping to encourage a local physician to spend some time in their community, making it easier, especially for elders, to receive medical attention. While we were encouraged to see that many First Nations have made great strides in addressing health concerns such as diabetes, proper nutrition etc., there remains a great need in many communities to find solutions to substance abuse problems. As noted in the earlier example of the severely disabled child, many young people residing on reserves are caught in the jurisdictional battleground.

### **Justice issues**

As noted earlier, Aboriginal people expressed deep concern with the justice system. These arise at a number of levels. There are very few Aboriginal police officers who work off the reserve and those working in First Nation communities are concerned that their benefit packages and job security are not the same as those offered to their non-Aboriginal counterparts.

The communication gap discussed earlier has a particularly negative impact in areas such as counselling and mediation. We were told of situations where Aboriginal people had to leave their community for Family Court mediation sessions which they found difficult to understand because of language and cultural differences. Because of that, they did not continue with the sessions.

The limited number of Aboriginal probation officers, lawyers and social workers were also brought forward as points that need to be addressed. We were advised that New Brunswick remains the only province in Canada that does not benefit from the federal Court Worker Program. The program has had considerable success in reducing the alienation and intimidation Aboriginal people may experience when they enter the courtroom, and in providing post-sentencing services attuned to Aboriginal experience. The program encourages participants to take an holistic approach to the judicial and sentencing process.

### **The Forest Industry and Professional Organizations**

We met with a large representation from the forest industry and related organizations. In general, they broadly endorsed the way in which the forests are managed in New Brunswick. Many also indicated that the industry had been permanently changed by the events of the winter and spring of 1998. They accepted this fact and were prepared to work towards greater participation of Aboriginal people in the forestry sector.

In his presentation, Dr. Baskerville traced the history of the Crown Lands and Forests Act, giving the reasons for its development -- a projected severe shortage of wood in the years 2010-2025 that might result in the collapse of the industry that is of primary importance to the province. He further described how the Act was implemented.

The current forest management system was devised with the understanding that industry would implement management plans that would be monitored by the province on a regular basis. This way, industry would bear a large part of the cost of managing the resource while the provincial government would have ultimate authority - by granting or denying licenses--and would collect a percentage of the cost of the wood removed from Crown land in the form of a royalty, which is then put into general revenue.

The rationale behind the forest management system in New Brunswick, in the most simplistic terms, is that industry will do its best to protect and develop the resources because without them, industry would seriously suffer. In the late 1970's and early 1980's, the values of the forest industry and the economic health of a number of rural areas in the province were the main focus of the Crown Lands and Forests Act.

At the time, the concerns of environmentalists, conservationists and the Aboriginal people in New Brunswick were not considered. The province was attempting to address a crisis situation as best it could and the absence of these other values in the Act or in the thinking that created the Act are more likely the result of an oversight than design. In fact, the province has, over the years, acted to take account of many of these values.

However, Baskerville says, there is room for other values to be reflected in the Act as long as the amount of fibre extracted from Crown Lands is not increased and that the forest continues to be managed in a sustainable manner. Essentially these other values must be reflected within the current annual allowable cut. Baskerville stated:

... I have some familiarity with the emerging wood supply problems in other provinces, and despite recent changes, New Brunswick stands out as having the most functional approach to solving a problem that faces every province in the country.

With all its difficulties, I consider the N.B. Crown Lands and Forest Act to be one of the most innovative and effective in contemporary Canadian forestry, with respect to addressing sustainability of wood supply, and, with respect to motivating real forest level management. New Brunswick, of all the provinces, arguably has the best assessment of its future forest problems and the most functional approach to forest management designed to address those problems.

This opinion was shared by others. A 1991 Macleans Magazine study of forestry practices across the country arrived at the same conclusions and rated New Brunswick the best in Canada in terms of managing its forest resources and the quality of the information it is capable of gathering through its management system.

Fraser Paper Inc. provided us with a valuable comparative perspective on the management of the forest resources by bringing our attention to the different systems in New Brunswick and the State of Maine. The distinction between the two systems, according to their analysis, is that New Brunswick manages the forest resource in a proactive scientific way, focusing on the health of the whole forest as opposed to a single stand. New Brunswick's long-term strategy - an 80-year horizon - is supported by a number of plans: a 25-year management plan, a five-year tactical plan and a one-year operating plan. The system in Maine is more reactive and tends to focus on a single stand as opposed to the whole forest.

A vital part of all of these plans is the attention to silviculture on Crown Land. The Department of Natural Resources and Energy has committed upwards of \$20 million annually for the purpose of applying silviculture practices to Crown Lands. These practices include reforestation, pre-commercial and commercial thinning - all activities geared toward managing the forest resource in a sustainable manner.

As technology and scientific research evolve, the "business" of silviculture is becoming increasingly important in New Brunswick. More and more, people who have had traditional jobs in the forestry sector are now working in this domain. As the shift is being made, efforts to train people in this growing activity have also been increased.

As a net importer of wood, the province is also working with private woodlot owners to help them protect their forests. The issue of over-cutting on private woodlots is becoming increasingly volatile as the demand for the resource exceeds the supply that is available on a sustainable basis. The provincial government is not only struggling with wood allocations from Crown Land and how they are distributed, it is being challenged to find ways in which to promote sustainable forest management practices on private woodlots.

We were encouraged to hear that for the most part, industry is willing to play a role in helping Aboriginal New Brunswickers become more active participants in the forest industry. A number of options were presented to us: some licensees were looking to hire Aboriginal people to work directly with them while others were looking to work with Aboriginal contractors.

Of great interest to us was the training program Repap has developed for its contractors and employees. In conjunction with New Brunswick Community College - Miramichi, the company has devised a holistic approach to developing the skills needed to work in the modern forest industry. From literacy skills to the finer points of preserving bio-diversity, the program produces well-trained woods workers. Unfortunately, this was virtually unavailable to Aboriginal people, but it deserves further attention as a very useful and instructive model.

The forest industry in New Brunswick competes globally, using some of the most advanced technologically based systems and procedures in the world. What was an eye-opener for us was just how technologically advanced the industry has become and the lengths to which industry must go to maintain a competitive position. Increasingly, demands on the industry require that its harvesting, silviculture and processing techniques allow for maximum effectiveness and to extract the maximum use from the fibre.

### **Environmentalists**

Representatives from the Conservation Council and the Protected Areas Coalition voiced their concerns about the conservation of eco-systems, the way in which the forests are harvested and the public's involvement in the process of forest management.

### **Forestry Workshop**

To address the issue of misinformation about the management of Crown Lands in New Brunswick and the forest industry as well, we sponsored a workshop to offer insights into New Brunswick's forest management system and into realistic economic opportunities that may be available in the forestry sector to the Aboriginal people. This, we felt, could serve the important goal of helping to narrow the knowledge gap between the various parties involved.

Seventy participants, representing First Nations, the Aboriginal Peoples Council, the Union of New Brunswick Indians, MAWIW, the Native Indian Women's Council, industry and governments, heard three presenters discuss the forest industry from a number of perspectives. Janice Campbell of the Canadian Forestry Service provided the group with an historical overview of the industry and the role of governments in forest management in New Brunswick. Steve Ginnish, the chief forester from Eel Ground First Nation, detailed his community's approach to forest management on their lands and discussed the evolution of their saw mill operation. Vern Bachiu of the Meadow Lake Tribal Council in Saskatchewan chronicled the history of the NorSask mill, a multi-million-dollar operation owned and operated by the Tribal Council.

We were very pleased with the participation at this workshop as it was essentially the first time all groups directly involved had been assembled in any significant way. We thank the federal Department of Indian Affairs and the provincial government for their financial support of this endeavour.

### **Government**

In general, we were very pleased to hear government officials, from two Premiers on down, speak about a new way of thinking and a willingness to work with the Aboriginal people of New Brunswick. While we were, on a few occasions, surprised by the lack of understanding of the Aboriginal community in New Brunswick and the resistance to considering the unique nature of the challenges Aboriginal people face, generally we were encouraged by the level of commitment of Ministers and their officials.

Since the Task Force began its work, a number of initiatives have been undertaken by several government departments. The Department of Labour, in consultation with a number of Aboriginal leaders and representatives, is in the process of designing an Aboriginal Employment Initiative which they hope to implement in the near future.

We were pleased to learn recently of an initiative by the Department of Health and Community Services. The department is undertaking a review of its services for and service arrangements with Aboriginal communities in New Brunswick. A number of the issues raised in our meeting with Health and Community Services and Minister Breault's officials will be considered during this process. They include cultural sensitivity in delivering their services, suicide prevention and jurisdictional issues.

Another recent initiative is the Department of Justice's appointment of an Aboriginal woman as duty counsel for the Big Cove First Nation in a pilot project that is a joint effort of the federal and provincial governments, Legal Aid New Brunswick and the Law Society of New Brunswick. As well, the department co-sponsored a workshop to explore restorative justice issues with the province, the federal government and Aboriginal communities.

### **Assessment and Recommendations**

In the course of our deliberations, we came to a number of sometimes firm, sometimes tentative conclusions regarding the various issues that have come before us. In the short period and with the limited resources available to us, we do not purport to present an elaborate study of the matter, but we have come up with what we think are reasonable and workable approaches that merit consideration by government, Aboriginal communities, industry and any other persons involved or interested.

#### ***The Role of the Provincial Government***

For reasons already given, the New Brunswick Aboriginal community has been largely overlooked in the development of policy and the provision of services by the provincial government. Even though in recent years a number of programs have been developed for New Brunswick Aboriginal people in fields such as education, child welfare, heritage and archaeology, the fact remains that the bulk of the recent provincial initiatives, though well meant, have not been particularly successful.

Historically, the concerns of and the issues surrounding Aboriginal people in New Brunswick have been routed to one part of a small department within the provincial government. For more than 20 years, the responsibility for anything deemed "Aboriginal" has been designated to one single person.

Given the size of the provincial bureaucracy and the fact that the resources - both human and financial - dedicated to the Aboriginal file are so limited and dispersed, it should come as no surprise that little progress has been made in nurturing the relationship between the province and the Aboriginal communities.

We do not wish in any way to criticize the efforts of individuals who have, in many cases, worked in isolation to try to further the cause of Aboriginal people within the provincial government. They are to be commended. However, the system requires reorganization and more dedicated people with sufficient resources to be able to effect positive change throughout all levels of government.

The situation is exacerbated by a lack of communication and co-ordination between departments that do get involved in Aboriginal issues. A case in point is the Ganong Line -- an item identified in many Aboriginal communities as a sore point. The Department of Natural Resources uses the Ganong line taken from a map drawn in the late 1800s to delineate Mi'kmaq and Maliseet territory and to charge Aboriginal people with hunting offences when they hunt outside their respective territories as indicated by this line. The province's own Archaeology Branch was not consulted on the merits or otherwise of choosing this demarcation. It should be noted that the Archaeology Branch has been working for more than twenty years with First Nations and their leadership in order to discover and preserve the rich archaeological heritage of New Brunswick's First Peoples.

Compounding this internal lack of communication within government is an absence of adequate means of communication between the government and the Aboriginal communities. There is a serious lack of information flowing to the Aboriginal people regarding the very existence of programs from which Aboriginal people may, along with other groups, benefit and, indeed, programs directly aimed at Aboriginal people. Many of the numerous programs to benefit the disadvantaged are not tailored to the specific needs of the Aboriginal communities whether on or off reserves.

Matters are not helped by the fact that there is only a handful of Aboriginal people in the public service, a situation that is all the more pronounced at the policy level. Accordingly, it is difficult for those in the public service to test ideas for addressing Aboriginal issues with those who have lived these challenges.

There appears to be no organized plan to recruit Aboriginal people at this level, there is no effective way to ensure the employment of a reasonable number of Aboriginal people, to prevent discrimination or to promote affirmative action programs. It is also of concern that Aboriginal people who have served in the public service have tended to leave and no study has been made to indicate why this is happening. Reasonable efforts might be made to explore the reasons for this.

The seriousness of these problems cannot be overstated. It points to the need for concentration of governmental activity regarding Aboriginal people that is directed by some political and administrative organization at the highest level of government. This is no time for a business-as-usual attitude where Aboriginal concerns are in theory addressed by various small entities scattered throughout the government departments. This is not to say that there must not be liaisons in the various line departments geared to addressing the needs of Aboriginal people. These should be encouraged to serve the policies adopted by the senior entity previously suggested, as well as to foster adaptations of programs of line departments to meet the needs of New Brunswick's Aboriginal community.

**To meet these institutional problems, we recommend:**

1. The establishment or revamping of a central entity to consolidate existing programs and develop new programs offering provincial services attuned to the specific conditions of Aboriginal New Brunswickers. The Minister responsible should be assigned the work as a matter of priority and of major importance. The entity should be handled on the administrative side by a senior Deputy Minister assigned specifically to Aboriginal Issues.

We are aware of the current trend in the federal government system to put more emphasis on Aboriginal issues at departmental levels as opposed to relying solely on the Department of Indian Affairs and we can appreciate the province's desire to subscribe to the same philosophy. However, without putting too fine a point on the matter, what we are witnessing at the federal level could be described as a step in an evolutionary process that has yet to begin in New Brunswick. In this regard, New Brunswick has nothing to devolve from one central agency to the other departments - the cupboard is bare.

We must also point out that the relationship between the province and the Aboriginal people continues to be strained, an indication that what has been done in the past has not necessarily been successful. Moreover, the dispersal of bodies dealing with aboriginal matters makes communication between the government and Aboriginal communities extremely difficult. Simply put, the Aboriginal communities must know where to turn for action.

That is why we are convinced that a central entity in New Brunswick is essential if the relationship between Aboriginal people and the provincial government is to improve. We do not wish to see the Aboriginal people of the province ghettoized in any way but we do see a great need to offer them a single entry point to the provincial government at least until the relationship improves and the bureaucracy is better equipped to deal with the concerns of the Aboriginal community.

**We further recommend:**

2. A one-stop agency to communicate information about government programs to Aboriginal people and to communicate information about Aboriginal people to the appropriate department. The government should explore the possibility of a federal-provincial agency.

We recognize that existing structures could be used to meet some of the needs in this regard. For example, Service New Brunswick may well be the appropriate area in government through which Aboriginal Communities can learn more about government and its programs. We would also look to Communications New Brunswick as a logical place for some of this activity to occur, especially in terms of ensuring that media outlets in the province are informed about issues involving the Aboriginal communities and the provincial government.

There is also a role for the federal government to play in the dissemination of information to Aboriginal people. New Brunswick does not benefit from a strong federal presence in matters of Aboriginal concern. The regional office of Indian Affairs is located in Amherst, Nova Scotia and must service all Atlantic Provinces. We heard many complaints from the Aboriginal communities about the lack of effective contact with this office and propose that Indian Affairs provide more "on- the-ground" services in New Brunswick.

We would also encourage the Federal Interlocutor, the federal government contact for Aboriginal people living off-reserve, to establish regular communication and dialogue with the New Brunswick Aboriginal People's Council and the province.

**We also recommend that**

3. A legislative committee on Aboriginal issues be established, and a day should be set aside annually for a meeting between the Chiefs, the Aboriginal People's Council, the Premier and Cabinet. The Premier should arrange for a meeting with the Chiefs and the Aboriginal People's Council in the immediate future followed by ongoing contact between the Chiefs, the Aboriginal People's Council and the government at a ministerial level.

4. A policy of hiring Aboriginal people for work in the public service dealing specifically with Aboriginal matters and, more generally, with policy issues should be developed.

Further to this we would suggest that, where applicable, the provincial government consider ways in which to include more Aboriginal businesses in government contracts.

We recommend that

5. An agency (or a program) be set up to foster employment of Aboriginal people in all aspects of the public service and to promote affirmative action for the employment of Aboriginal people within other public bodies, including municipalities, as well as private organizations.

We note again the severely limited employment opportunities on reserves and the great need to include more Aboriginal people in all types of jobs. Job and career opportunities such as teacher, lawyer, shopkeeper, construction worker, social worker, and any others in the general community should be available to Aboriginal people. We encourage the provincial government to develop policies that will help meet the employment needs of Aboriginal people well into the future.

As many of the issues facing Aboriginal people in New Brunswick cross several jurisdictional boundaries, we recommend that

6. Tripartite committees, consisting of members of the federal and provincial governments and representatives of Aboriginal communities, both on and off reserves, be established to deal with issues involving these levels of government.

A number of Aboriginal people have also proposed that there should be specific representation in the Legislature for Aboriginal people, though others are opposed. The Task Force has not studied this matter in depth, but notes the government has shown its interest in studying the matter. The proposal already submitted for discussion between the government and the Aboriginal leadership could be a place to start.

**Cultural Awareness and Social Development**

We believe the provincial government has a role to play in helping all New Brunswickers become more aware of the diverse cultures that make up our province. For decades now, New Brunswickers have been proudly promoting the bilingual nature of our province and the fact that two different cultures have flourished within the same borders. As Premier Thériault stated when he was sworn-in as the 29th premier of New Brunswick, "we...must educate ourselves and be open to the vast cultural and social diversity that defines our entire country." We could well begin at home and recommend:

7. A concerted effort to bridge the cultural gap between the Aboriginal and non-Aboriginal people of New Brunswick should be mounted. This should include public awareness campaigns directed at all levels of New Brunswick society, as well as special programs for educators, employers and government employees. Similar programs should be directed at the Aboriginal communities informing them of the mechanics of the provincial government and the services and programs available to them.

8. As much as possible, the province respect the values and traditions of Aboriginal people in terms of protecting sacred sites and traditional plants used for medicinal and spiritual purposes, permitting reasonable access to sources of ash for the production of baskets and the collection of eagle feathers, again for spiritual purposes.

As 1999 marks the International Year of Older Persons we would encourage the provincial and federal governments to support and promote exchanges between Aboriginal elders and youth, and young people and senior citizens throughout New Brunswick. The value of this kind of activity in breaking down cultural barriers at a grassroots level could be immeasurable.

We would also encourage the provincial government to support the efforts of the Sport, Recreation and Active Living branch of their Department of Municipalities and Housing. The branch made a presentation to the Task Force early in our mandate in which they outlined a number of ideas for promoting sports and recreation. We note the past participation of the provincial government in providing financial support enabling a New Brunswick team to participate in the Native Friendship Games. The games are usually held in a distant location and travel costs for the team can be quite high.

#### *The Justice System*

We referred earlier to the difficulties Aboriginal people face in dealing with the justice system due to language and cultural barriers. In this area, we recommend the following:

9. The province should adopt the Court Worker program.

10. The judiciary should become more aware of the values of Aboriginal people and, when sentencing Aboriginal offenders should take into consideration section 718.2 (e) of the Criminal Code of Canada which states:

all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.

In working with young aboriginal offenders,

11. The Attorney General should consider section 69 of the Young Offenders Act which delineates the use of Youth Justice Committees and reads as follows:

The Attorney General of a province or such other minister as the Lieutenant-Governor in Council of the province may designate, or a delegate thereof, may establish one or more committees of citizens, to be known as Youth Justice Committees, to assist without remuneration in any aspect of the administration of this Act of in any programs or services for young offenders and may specify the method of appointment of committee members and the functions of the committee.

This section of the Young Offenders Act has been successfully implemented in Aboriginal communities in a number of provinces. Essentially, it can be used to recognize the responsibility of the Aboriginal community in question to rehabilitate their troubled youth.

We would also point to the federal government's Aboriginal Justice Learning Network which has been implemented to help bridge the cultural gap between Aboriginal people and the Canadian justice system. The project touches on such matters as diversion, sentencing circles, conferences and workshops to bring Aboriginal people, judges, police and probation officers, as well as addiction counselors together to improve their relations. The province and First Nations should explore the Aboriginal Justice Learning Network to see if these federal resources can be of benefit in New Brunswick.

In the area of Family Court mediation we recommend that

12. The province bring together Aboriginal and Family Court social workers in order to assist Aboriginal clients to better understand the mediation process. A cultural sensitivity training program should be made available to Family Court social workers.

This would be particularly useful because many aboriginal people cannot benefit fully from the mediation process because of language and cultural barriers.

#### **Forest Management on Crown Lands**

Although the Crown Lands and Forests Act is generally considered to be good legislation, there is room for improvement. The Act is almost 20 years old and changing social values are not resonant in the Act as it stands. That is not to say that government has not been responsive to emerging values. It has, but this not reflected in the Act itself. Expressly providing that concerns about the environment, sacred sites and protected forests are somehow addressed in the Act would bring forcefully to administrators the need to take cognizance of these concerns.

In developing the Act, great care was taken to protect the smaller communities which relied on the forest industry. While this may not theoretically appear to be the best economic or business approach, it is eminently justifiable to protect these settled communities in this way. However, the same can also be said of the Aboriginal communities, which were never considered. It is time to rectify this and to acknowledge to the Aboriginal communities that their current access to the resource will continue in some way, allowing them to expand economic development opportunities.

As well, we think some of the nomenclature should be reviewed. The expressions "licensee" and "sub-licensee" are misleading. The latter are in no way subsidiaries to the licensees, but are entitled to certain quantities of wood allotment in their own right. Of course, the licensees have the duty to allocate the particular areas for harvesting in the performance of their task of managing the forests.

We have learned that, regrettably, many New Brunswickers are unaware of how their forests are managed. Because of this lack of information, they are not in a position to engage in a thoughtful discourse on the management of this critically important resource or its future, even though the Act itself allows for public input on the various management plans developed by industry.

This poses a particular problem today as New Brunswickers are being asked to consider things like the Protected Areas Strategy which, if implemented, would see hundreds of thousands of hectares of Crown Land set aside for total protection.

#### **With these points in mind, we recommend the following:**

13. The Crown Lands and Forests Act should include reference to the protection of sacred and archaeologically important sites, and be written in such a way as to allow for existing Aboriginal and treaty rights and to encourage Aboriginal participation in forest management.

14. A campaign to inform the general public about the way in which Crown Lands are managed in New Brunswick should be launched. We would expect this to be done as a joint effort between the forest industry and the Department of Natural Resources and Energy.

We note that the principal document used for forest management in the province is the Forest Management Manual produced by the Department of Natural Resources and Energy. It will be important for Aboriginal people involved in the forest industry in New Brunswick to be given training based on the principles of this manual.

We would also point to the Report of the Royal Commission on Aboriginal Peoples (RCAP). Volume Two part II, Restructuring the Relationship, offers a range of useful recommendations especially regarding access to resources on Crown Lands, co-management schemes, jurisdiction and Aboriginal participation in the forest industry.

We further recommend that:

15. The provincial government and Aboriginal leaders begin discussions concerning the recommendations in the RCAP Report -- Volume two - Restructuring the Relationship - Sections 7.2 and 7.3 and Volume three - Gathering Strength - Section 6.1

The RCAP also references a 1992 National Forestry Strategy for Canada that focused on Aboriginal people in an effort to increase the involvement of Aboriginal people in forest land management ...to ensure the recognition of Aboriginal and treaty rights in forest management .. and to increase forest-based economic opportunities for Aboriginal people.

These points are highlighted again in the Canada Forest Accord (May 1,1998) to which the province of New Brunswick, the federal Department of Natural Resources, other provinces and a number of industry representatives are signatories. The accord is a significant pledge to the people of Canada and the world ensuring that Canada will:

maintain and enhance the long-term health of our forest ecosystems, for the benefit of all living things both nationally and globally, while providing environmental, economic, social and cultural opportunities for the benefit of present and future generations.

**The signatories have agreed to put their commitments to action including:**

Recognizing and making provisions for Aboriginal and treaty rights, ensuring involvement of Aboriginals in forest management and decision-making, consistent with these rights, supporting the pursuit of both traditional and modern economic development activities, and achieving sustainable forest management of Indian Reserve Lands.

As well, they have made a commitment to prepare before the end of 1998, public and measurable action plans in response to their commitments. Considering that the province has agreed in principle to the Canada Forest Accord, we would further recommend that:

16. The province of New Brunswick prepare its action plan in response to the commitments of the Accord. The preparation of this should take into consideration the goals of the 1992 strategy, the current Accord and the relevant recommendations in the Report of the Royal Commission on Aboriginal Peoples. Once complete, the plan should be made available to the general public.

#### ***Aboriginal Participation in the Forest Industry***

What has become abundantly clear in our discussions is that, following the Turnbull ruling, Aboriginal people felt they had been given an opportunity to find some measure of economic stability for the first time. We were concerned, though, that many viewed the opportunity very narrowly, that is to say that the harvesting of wood seemed to be the only answer to their employment woes. Putting the rights issue aside, it is no wonder that the size of the allocation from the Department of Natural Resources and Energy was questioned - simply cutting down that amount of wood would not offer the communities a total solution to their chronic unemployment problems.

We would encourage the Aboriginal people of New Brunswick to look beyond harvesting and consider ways in which to add value to their allotment. We are not in a position to recommend a particular size of wood allocation for the Aboriginal people in New Brunswick; this must be negotiated between the provincial government and the leadership of the Aboriginal people. As well, there are current cases pending regarding access to the resource.

We must also emphasize that an entry into the forest industry is only part of the employment and economic picture for the Aboriginal People of New Brunswick. Other avenues will have to be explored as well.

Industry and the province alike have recognized the need to encourage further participation in the forest industry by Aboriginal people. To this end, we recommend - as we have done orally -- that

17. The forest industry, act speedily in taking appropriate steps to increase Aboriginal participation in this sector. This could take many forms: direct employment with industry, contracting relationships, working in ancillary parts of the industry--silviculture, value-added processing, shipping, etc...

We note that the Minister of Natural Resources and Energy appears to have power under the agreements with the licensees and sub-licensees to assist Aboriginal people in the province to participate in these activities. Paragraph 14.2.2 of the current Amended and Restated Forest Management Agreement between the province and the licensees states:

... The Minister may from time to time request, and the Company agrees to comply with any such request, that independent forestry contractors or former Licensees of Crown Lands covered by this Agreement, or both, be engaged to carry out harvesting, transportation and silviculture operations on such Crown Lands in a manner consistent with the operating plan.

This is further supported by section 35 of the Crown Lands and Forests Act:

35(1) Notwithstanding section 30, where the Minister

(a) after consultation with the licensee,

(b) after taking into account the licensee's and sub-licensees' reasonable requirements for timber from Crown Lands, and

(c) having regard to employment patterns within the Province, is of the opinion that it is in the public interest to do so, the Minister may do any or all of the following:

(d) increase or decrease the area of Crown Lands described in a license,

- (e) alter the boundaries of Crown Lands described in a license,
- (f) reallocate Crown Lands among licensees,
- (g) allocate Crown Lands to persons for purposes other than for a license, or
- (h) designate the area of Crown Lands that has been removed from a license under paragraph (d) as an area set aside for Crown timber permits.

We understand that there may be several proposals being made to the provincial government on behalf of Aboriginal people to build or acquire a mill or mills in the province. While we support the concept of Aboriginal production facilities, we are well aware of the limitations of the fibre available in the province and the need to remain true to the annual allowable cut (AAC).

We would encourage the Aboriginal leadership and appropriate officials from the provincial and federal governments to begin discussions relating to value-added opportunities for the existing five per cent share of the AAC and the possibility of acquiring an existing facility along with its assigned wood allocation. We consider value-added opportunities as further processing of cut timber such as plywood or furniture production as well as better use of the remains of the harvesting process.

As mentioned earlier, we recognize the complexities and the ongoing technical training required in today's forest industry. We have also heard from industry that there are just not enough Aboriginal people who have received the level of training they need in this very modern industry. To address this need, we recommend that:

- 18. A pre-training program be developed by the provincial, federal and Aboriginal governments to help Aboriginal people obtain core skills required to successfully complete more specialized training programs.
- 19. The province of New Brunswick in conjunction with the federal government and the leadership of the Aboriginal communities designate specifically for Aboriginal students, a reasonable number of seats at community colleges around the province that offer training in forest industry work. These students should also have access to culturally-sensitive services and programs that will help them complete their studies
- 20. The Maritime Forest Ranger School should continue working with Aboriginal students in an effort to prepare them for work in industry as well as with the provincial government.
- 21. The province of New Brunswick integrate these various training programs with a redefined program with the federal government geared towards sustainable management of forests on reserve lands. This could be achieved by further supporting the First Nations Forestry Program which is only scheduled to run until the end of 2001 or by designing a new program to fit the unique needs of New Brunswick First Nations.

Recognizing the world-class expertise in the forest industry available here in New Brunswick we would further recommend that:

- 22. The Premier call and chair a meeting of industry representatives and the leadership of the Aboriginal communities to discuss ways in which government and industry can help Aboriginal people gain access to the forest industry.

***Economic Development***

Clearly, access to the forest industry is not a panacea. As is the case for all New Brunswickers, Aboriginal people cannot rely on one small part of a single industry for their livelihood. Other opportunities for further economic development and increased employment must be also be considered.

As we traveled the province to meet with various communities and organizations we were impressed by a number of interesting, but little known, projects developed by First Nations throughout the Province. We mentioned the Mi'kmaq experience in Bouctouche earlier, but there are others: Eel River Bar has its Heritage Gardens and an interest in a playground equipment manufacturing operation; Red Bank is trying to develop an archaeological site in the Augustine Mound; Pabineau is working on a cabin development; and there are many more.

Obvious opportunities exist in the tourism and culture sectors, but assistance is required for basic things like infrastructure. In some cases there are good developments but inadequate roads to get to them. As well, road and other signs are often insufficient and other infrastructure items such as restaurants, accommodations and restroom facilities are not available. Indeed, we have heard complaints that in some cases there are no road signs indicating where the Reserves themselves are located.

**With this in mind we recommend:**

- 23. In future, when negotiating infrastructure and economic development agreements, the federal and provincial governments should include representatives of Aboriginal people in the discussions.

The Joint Economic Development Initiative (JEDI) has had a positive effect on economic development in Aboriginal communities. We were pleased to learn that their advisory committee is strong, accountable and involves the federal, provincial and aboriginal governments. Their meetings are open to anyone who wishes to participate. However, they lack the power needed to strongly promote capacity building or to help fledgling First Nation businesses acquire some of the tools they need such as computers.

We encourage all three governments to continue their participation in JEDI and further recommend that:

- 24. JEDI be given a higher profile and that more resources be made available to it so that it can become more responsive to the needs of the Aboriginal communities, especially in the area of training and support for economic development projects.

We would also encourage the province to promote dialogue and partnerships between Aboriginal and non-Aboriginal businesses.

**To this end, we recommend that:**

- 25. Heads of industry, business leaders and business organizations be brought together with the leadership of the Aboriginal communities in a meeting chaired by the Premier or a senior Minister. The meeting would focus on ways of increasing the participation of Aboriginal people in the economy of New Brunswick.

Tourism is the world's fastest growing industry and is slated to be the world's largest. The opportunities for the First Nations in New Brunswick in this sector are many. From developing an "Aboriginal Trail" to eco-tourism and the manufacturing of traditional products, Aboriginal people should be encouraged to actively participate in this sector.

As the Aboriginal population in New Brunswick grows, it will be increasingly important for governments to find ways in which to include Aboriginal people in the decision-making processes of government, the province's economy and New Brunswick society in general.

### **Conclusion**

We do not pretend to have all the answers to questions that many have pondered for years. What we wish to bring to all New Brunswickers is a sense of hope and possibility. Hope for a better, more respectful and productive relationship between the Aboriginal people in New Brunswick and the provincial government and the possibility of a more tolerant and understanding society. We firmly believe that the first steps toward these goals are continued communication and commitment on the part of Aboriginal and non-aboriginal leaders alike.

As New Brunswickers, we can choose to look back with regret at the events of the winter and spring of 1998 or we can choose to look ahead knowing that we have been forever changed and that we have an opportunity to achieve a better relationship between Aboriginal and non-Aboriginal New Brunswickers.

We realize that achieving this will take time and dedication. We were very encouraged by the beginning steps taken by Premier Thériault and the Aboriginal leadership at their meetings on January 22, 1999. We hope the thoughts we have set forth in this document will help to guide a process that must continue well into the future.

We turn again to Dr. Albert Levi. On December 10, 1998 he stated:

It's time for talk. Talk is cheap but it can lead to priceless improvements in Indian-provincial relations. That is what I see and what I hope for as a new age of politics is being born.

In closing we thank former Premier Frenette, Premier Thériault, all the First Nations Chiefs and leaders of the Aboriginal community in New Brunswick, and all others who took the time to share their thoughts and experiences with us.

### ***List of recommendations***

1. The establishment or revamping of an entity to consolidate existing programs and develop new programs offering provincial services attuned to the specific conditions of Aboriginal New Brunswickers. The Minister responsible should be assigned the work as a matter of priority and of major importance. The entity should be handled on the administrative side by a senior Deputy Minister assigned specifically to Aboriginal Issues.
2. A one-stop agency to communicate information about government programs to Aboriginal people, and to communicate information about Aboriginal people to the appropriate department. The government should explore the possibility of a federal-provincial agency.
3. A Legislative Committee on Aboriginal issues should be established, and a day should be set aside annually for a meeting between the Chiefs, the Aboriginal People's Council, the Premier and Cabinet. The Premier should arrange for a meeting with the Chiefs and the Aboriginal People's Council in the immediate future followed by ongoing contact between the Chiefs, the Aboriginal People's Council and the government at a ministerial level.
4. A policy of hiring Aboriginal people for work in the public service dealing specifically with Aboriginal matters and more generally with policy issues needs to be developed.
5. An agency (or a program) should be set up to foster employment of Aboriginal people in all aspects of the public service and to promote affirmative action for the employment of Aboriginal people within other public bodies, including municipalities, as well as private organizations.
6. Tripartite committees, consisting of members of the federal and provincial governments and representatives of Aboriginal communities, both on and off reserves, should be established to deal with issues involving these levels of government.
7. A concerted effort to bridge the cultural gap between the Aboriginal and non-Aboriginal people of New Brunswick should be mounted. This should include public awareness campaigns directed at all levels of New Brunswick society, as well as special programs for educators, employers and government employees. Similar programs should be directed at the Aboriginal communities informing them of the mechanics of the provincial government and the services and programs available to them.
8. As much as possible, the province respect the values and traditions of Aboriginal people in terms of protecting sacred sites, and traditional plants used for medicinal and spiritual purposes, permitting reasonable access to sources of ash for the production of baskets and the collection of eagle feathers again for spiritual purposes.
9. The province should adopt the Court Worker program.
10. The judiciary should become more aware of the values of Aboriginal people and, when sentencing Aboriginal offenders should take into consideration section 718.2 (e) of the Criminal Code of Canada which states: all available sanctions other than imprisonment that are reasonable in the circumstances should be considered for all offenders, with particular attention to the circumstances of aboriginal offenders.
11. The Attorney General should consider section 69 of the Young Offenders Act which delineates the use of Youth Justice Committees and reads as follows:  
The Attorney General of a province or such other minister as the Lieutenant-Governor in Council of the province may designate, or a delegate thereof, may establish one or more committees of citizens, to be know as Youth Justice Committees, to assist without remuneration in any aspect of the administration of this Act of in any programs or services for young offenders and may specify the method of appointment of committee members and the functions of the committee.
12. The province bring together Aboriginal and Family Court social workers in order to assist Aboriginal clients to better understand the mediation process. A cultural sensitivity training program should be made available to Family Court social workers.
13. The Crown Lands and Forests Act should include reference to the protection of sacred and archaeologically important sites and be written in such a way as to allow for existing Aboriginal and treaty rights and to encourage Aboriginal participation in forest management.
14. A campaign to inform the general public about the way in which Crown Lands are managed in New Brunswick should be launched. We would expect this to be done as a joint effort between the forest industry and the Department of Natural Resources and Energy.
15. The provincial government and Aboriginal leaders begin discussions concerning the recommendations in the RCAP Report -- Volume two - Restructuring the Relationship - Sections 7.2 and 7.3 and Volume three - Gathering Strength - Section 6.1.

16. The province of New Brunswick prepare its action plan in response to the commitments of the Accord. The preparation of this should take into consideration the goals of the 1992 strategy, the current Accord and the relevant recommendations in the Report of the Royal Commission on Aboriginal Peoples. Once complete, the plan should be made available to the general public.

17. The forest industry, act speedily in taking appropriate steps to increase Aboriginal participation in this sector. This could take many forms: direct employment with industry, contracting relationships, working in ancillary parts of the industry--silviculture, value-added processing, shipping, etc.

18. A pre-training program be developed by the provincial, federal and Aboriginal governments to help Aboriginal people obtain core skills required to successfully complete more specialized training programs.

19. The province of New Brunswick in conjunction with the federal government and the leadership of the Aboriginal communities designate specifically for Aboriginal students, a reasonable number of seats at community colleges around the province that offer training in forest industry work. These students should also have access to culturally-sensitive services and programs that will help them complete their studies.

20. The Maritime Forest Ranger School should also be encouraged to continue working with Aboriginal students in an effort to prepare them for work in industry as well as with the provincial government.

21. The province of New Brunswick integrate these various training programs with a redefined program with the federal government geared towards sustainable management of forests on reserve lands. This could be achieved by further supporting the First Nations Forestry Program, which is only scheduled to run until the end of 2001, or by designing a new program to fit the unique needs of New Brunswick First Nations.

22. The Premier call and chair a meeting of industry representatives and the leadership of the Aboriginal communities to discuss ways in which government and industry can help Aboriginal people gain access to the forest industry.

23. In future, when negotiating infrastructure and economic development agreements, the federal and provincial governments should include representatives of Aboriginal people.

24. The Joint Economic Development Initiative be given a higher profile and that more resources be made available to it so that it can become more responsive to the needs of the Aboriginal communities, especially in the area of training and support for economic development projects.

25. Heads of industry, business leaders and business organizations be brought together with the leadership of the Aboriginal communities in a meeting chaired by the Premier or a senior Minister. The meeting would focus on ways of increasing the participation of Aboriginal people in the economy of New Brunswick.

#### **Summary of Task Force meetings**

May 25, 1998 - David MacFarlane and other DNRE officials

May 29, 1998 - Kingsclear First Nation

June 1, 1998 - Woodstock First Nation

June 4, 1998 - Humphrey Sheehan & Tom Spinney - Natural Resources and Energy; Vern Bachiu - Meadow Lake Tribal Council (NORSASK)

June 5, 1998 - MAWIW Tribal Council in Tobique

June 8, 1998 - Tom Spinney - DNRE official; Paul LeBreton - Deputy Minister of Justice; David Morrison - Dept. of Finance re: tax issues

June 9, 1998 - New Brunswick Aboriginal People's Council; Dan Horsman - Dept. of Intergovernmental Affairs re: JEDI and other programs

June 10, 1998 - Meeting with Chiefs in Moncton during Atlantic Policy Congress

June 22, 1998 - Dr. Turnbull and Pat Allen - Culture & Heritage re: Sacred sites & Crown Land Act

June 23, 1998 - John Brown - DIAND (Regional office)

July 8, 1998 - Conservation Council of N.B. - David Coon and Julie Abouchar

July 9, 1998 - Meeting with Chief Tom Green and Councilors (Oromocto First Nation)

July 14, 1998 - Visit to Oromocto First Nation; Yvon Poitras, President of N.B. Sub-Licensee Forest Alliance and Brent Wilkins

July 16, 1998 - Bouctouche First Nation, Indian Island First Nation

July 17, 1998 - Max Cater - N.B. Forestry Products Association

July 21, 1998 - Premier Thériault, Jean-Guy Finn, Julian Walker, Kevin Malone

July 22, 1998 - Chief and Council of Big Cove First Nation

July 24, 1998 - Dr. Gordon Baskerville and Blake Brunson, Chief Forester, J.D. Irving Ltd.

July 27, 1998 - Tom Reid and Tom Spinney, DNRE

July 29, 1998 - Members of the Miramichi Woodlands Human Resources and Training Committee, meeting chaired by Joe O'Neill V.P. Repap Woodlands Division

July 30, 1998 - Meeting with Hon. Doug Tyler

August 6, 1998 - Burnt Church First Nation Chief and Council

August 7, 1998 - Minister of Justice Greg Byrne and Deputy Minister John McNair

August 10, 1998 - Meeting with NB Aboriginal Peoples Council

August 11, 1998 - Meeting with Dave Perley from the Education Department

August 17, 1998 - Meeting with Fort Folly First Nation

August 18, 1998 - Meeting with Red Bank First Nation

August 18, 1998 - Meeting with Eel Ground First Nation

August 19, 1998 - Meeting with Pabineau First Nation

August 19, 1998 - Meeting with Eel River Bar First Nation

August 20, 1998 - Meeting with Municipalities & Housing (Sports Recreation and Active Living)

August 21, 1998 - Professional Foresters of N.B.

August 26, 1998 - Meeting with Eel River Bar First Nation

September 1, 1998 - Meeting with N.B. Protected Natural Area Coalition

September 2, 1998 - Meeting with Hon. Bernard Theriault

September 3, 1998 - Meeting with Noah Augustine

September 3, 1998 - Meeting with Provincial Economic Development Officers - Charles Harn & Lynn Poole

September 4, 1998 - Meeting with Canadian Forest Service (Federal) - Janice Campbell, Tom Murray & John Henderson

September 4, 1998 - Meeting with Hon. Andy Scott

September 8, 1998 - Meeting with Eva Sock

September 9, 1998 - Meeting with Steve Ginnish in Eel Ground

September 10, 1998 - Meeting with Bill Montour, Regional Director Indian Affairs

September 21, 1998 - Meeting with Madawaska First Nation

September 22, 1998 - Meeting with Tobique First Nation

September 23, 1998 - Meeting with Doug Bridgman - Equal Opportunity Program

September 24, 1998 - Meeting with Hon. Georgie Day - HRD-NB

September 29, 1998 - Meeting with Hon. Edmond Blanchard

September 29, 1998 - Meeting with Hon. Roly McIntyre

September 30, 1998 - Meeting with Hon. Greg O'Donnell; meeting with the Premier

October 1, 1998 - Meeting with HRDC - Bill Ferguson & Jeff McLeod

October 15, 1998 - Meeting with Lorraine Thomas, Dave Easby and Nora Kelly D.M. Labor

October 16, 1998 - Meeting with Steve Hoyt - Director of Maritime Forestry School

October 20, 1998 - Visit to Doaktown & Chipman sawmills with Mr. Murray (DNRE)

October 22, 1998 - Meeting with Chiefs in Lennox PEI

November 3, 1998 - Meeting with Fraser Paper - Don Tardie and Gerald Clavette

November 16, 1998 - Meeting with Han Martin Associates

November 17, 1998 - Meeting with Indian Affairs Deputy Minister Scott Serson, Assistant Deputy Minister Denis Wallace and John Brown

November 19, 1998 - Meeting with Tobique First Nation (elders and women)

November 23, 1998 - Meeting with St. Mary's First Nation Chief and Council

November 24, 1998 - Meeting with Minister Bernard Thériault, Intergovernmental and Aboriginal Affairs

December 3, 1998 - Meeting with Big Cove Elders, Women and Youth

December 10, 1998 - Task Force on Aboriginal Issues Forestry Symposium

December 15, 1998 - Meeting with Julian Walker, Deputy Minister Intergovernmental and Aboriginal Affairs

January 22, 1999 - Meeting with Premier Thériault, First Nations Chiefs and federal/provincial government officials. Meeting with executive of New Brunswick Aboriginal People's Council, Premier Thériault and federal/provincial government officials.

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