



**Summary of
the Final Report of
The Royal Commission
on Aboriginal Peoples**

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A report by
The Institute On Governance
122 Clarence Street, Ottawa, Ontario K1N 5P6
(613) 562-0090

THE INSTITUTE ON GOVERNANCE

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In the area of Aboriginal and Northern Governance, the Institute provides two services: executive development and training on Aboriginal issues and policy and strategic advice.

Head Office

Institute On Governance, 122 Clarence Street, Ottawa, Ontario K1N 5P6

Phone: (613) 562-0090 Fax: (613) 562-0097

E-mail: info@igvn.ca

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Summary of the Final Report of The Royal Commission on Aboriginal Peoples

A. INTRODUCTION

The Royal Commission on Aboriginal Peoples was appointed in 1991 to help, in the Commission's words, "... restore justice to the relationship between Aboriginal and non-Aboriginal people in Canada and to propose practical solutions to stubborn problems." The Commission's final report was made public in November 1996. Previous reports of the Commission dealt with such topics as Aboriginal people and the Canadian justice system, the High Arctic Relocation, the Crown's land claims policies and processes and the legal and constitutional issues relating to Aboriginal self-government.

The Commission's final report consists of 5 volumes and includes approximately 4,000 pages of text. A summary of the recommendations alone covers some 110 pages. Some commentators have suggested that the sheer size of the report and its price have combined to make it virtually inaccessible to most concerned Canadians. In producing this summary, the intent of the Institute On Governance is to make a modest contribution towards having the Commission's agenda for change more widely known and debated.

The writing of a summary is not a neutral exercise. It involves judgments about what to include and how to present the material. For the purposes of this summary, the Institute has put the emphasis on conveying the report's overall logic and main conclusions, how the various parts of the report fit together and on the Commission's prescriptions for action. The Institute has also made liberal use of appendices and references to specific pages so that readers can peruse aspects from the report of particular relevance to their responsibilities or interests.

Comments on the usefulness of this document and how it might be improved would be welcomed.

B. DETAILED SUMMARY

The following 19 points cover the Commissions major conclusions and recommendations of its final report. The paragraphs in *italic* after these points amplify some of the conclusions and findings and, in some cases, highlight key implications.

The Past

- 1) **Based on a historical overview (volume one), the Commission concludes that the relationship that has developed over the last 400 years between Aboriginal and non-Aboriginal people in Canada has been built on "false premises" (Vol. 2, Part 1, P. 1). The result were policies that removed Aboriginal people from their homelands, suppressed Aboriginal nations and their governments, undermined Aboriginal cultures and stifled Aboriginal identity.**
 - *As part of its historical overview the Commission explores in greater detail four policy directions, based on these false premises: the various Indian Acts, residential schools, community relocations, and the treatment of Aboriginal veterans. These four areas were selected "... because Aboriginal people have said they were among the most unjust policies imposed on them and that those injustices, while rooted in history, have effects that continue to this day." (Vol. 1, P. 247)*
 - *Specific recommendations flowing from the Commission's treatment of Aboriginal veterans include:*
 - *measures to acknowledge the contribution of Aboriginal people during the wars of this century;*
 - *the appointment of an ombudsman to deal with grievances concerning benefits and with "... the legality and fairness of the sales, leases and appropriations of Indian lands for purposes related to the war effort ..."; (Vol. 1, P. 591)*
 - *the hiring of Aboriginal people in the department of veteran affairs to serve Aboriginal client groups; and*
 - *the establishment of a foundation in honour of Aboriginal veterans to promote & facilitate education & research in Aboriginal history.*
 - *The Commission sums up the effect of residential schools this way: "In their direct attack on language, beliefs and spirituality, the schools had been a particularly virulent strain of that epidemic of empire, sapping the children's bodies and beings. In later life, many adult survivors, and the families and communities to which they returned, all manifested a tragic range of symptoms emblematic of "the silent tortures that continue in our communities." (Vol. 1, P. 376) The Commission recommends that the federal government establish a public inquiry to investigate the origin and effects of residential school policies and to recommend remedial action.*
 - *Other Commission recommendations directed at the federal government and flowing from its analysis of the history of the relationship include the following:*

- *commitment to the publication of a general history of Aboriginal peoples of Canada to be completed in 20 years;*
- *establishment of a national repository of records and video collections related to residential schools and relocations of Aboriginal communities;*
- *authorization through legislation for the Canadian Human Rights Commission to inquire into and make recommendations, with appropriate remedies, on relocations of Aboriginal peoples; and*
- *the undertaking of efforts to develop international standards to protect Indigenous peoples against arbitrary relocation with incorporation of these standards into Canadian law.*

The Commission's Strategy

2) **The time has come, according to the Commission, to start afresh, to put the relationship on a more secure foundation, based on the following four principles:**

- a. **mutual recognition** (three facets of which are equality, co-existence and self-government);
- b. **mutual respect;**
- c. **sharing** (based on the long overdue recognition that Canada's past and present prosperity rests on a relationship of sharing extended by Aboriginal peoples); and
- d. **mutual responsibility** (involving the transformation of a colonial relationship into a partnership with joint responsibility for the land).

- *From a governance perspective, the first principle of mutual recognition may be the most important as it lays the basis for the Commission's approach to self-government, an approach which would create a new order of government in Canada.*
- *In regards to the second principle, mutual respect, the Commission notes that "Respect for the unique position of Canada's First Peoples ... should be a fundamental characteristic of Canada's civic ethos." (Vol. 1, P. 685)*
- *Of these four principles the most important from an economic development perspective is the third one - sharing. According to the Commission, the key question is "... how sharing can be built into the renewed relationship between Aboriginal peoples and the larger Canadian society so as to generate mutually beneficial economic interdependence and ecologically benign forms of resource management." (Vol. 1, P. 688)*

- *The fourth principle of mutual responsibility has a strong environmental ethic to it, an ethic of stewardship that has "... often been eclipsed by a careless and uninformed attitude to nature, an attitude that tacitly assumes that the earth is a virtually limitless resource at the disposal of the human species." (Vol. 1, P. 690)*
- 3) **The negotiation of treaties - either new treaties with groups like the Metis, now without treaties, or the re-interpretation or clarification of historical treaties - is the primary means for renewing the relationship based on the above principles. These treaties would deal with:**
- a) **self-government; and**
 - b) **the land and resources required to make self-government viable.**

Treaty negotiations would include the Provinces and territories as well as the federal government.

- *The Commission's recommendations for treaty processes (which would involve, among other things, the renegotiation or clarification of all of the historical treaties) would impact on every province in Canada and would have significant implications for most federal government departments and many of its programs over the next 20 years.*
- *Critical elements to the Commission's approach to self-government include the following:*
 - *Aboriginal Nations and not communities have an inherent right to self-government based on international law and the Canadian constitution;*
 - *Aboriginal governments can exercise jurisdiction in 'core' areas through self-starting initiatives without the need for agreements with other levels of government and in 'peripheral' areas through negotiated agreements; and*
 - *in establishing and structuring their governments, Aboriginal peoples should consider three models - nation government operating on a land base, public government (e.g. Nunavut) and community of interest government, which would be established without a land base.*
- *The Commission believes that "... self-government without a significant economic base would be an exercise in illusion and futility." (Vol. 2, Part 2, P. 775) Thus, the single most important factor in altering the economic options available to Aboriginal communities in the medium term is restoration of "... fair shares in the*

lands and resources of this country." Such restoration is necessary before "... even the best designed business development program can be expected to be broadly successful." (Vol. 2, Part 2, P. 799)

- 4) **These new treaty negotiations would be implemented by the adoption of:**
- a) **a new Royal Proclamation**
 - b) **enabling federal legislation; and**
 - c) **a national framework agreement to cover such topics as the scope of self-government agreements, the principles of land and resource sharing and fiscal arrangements to finance Aboriginal nations.**

The negotiation of the framework agreement would be convened under the authority of the first ministers of federal, provincial and territorial governments and the leaders of national Aboriginal organizations.

- 5) **In addition to the negotiation of new or renewed treaties, the development of new directions in social policy is a fundamental element in the Commission's strategy for renewing the relationship.** These new directions would encompass:

- **social issues** (poverty, health, housing, family violence);
- **cultural issues** (language, spirituality, child care and traditional ways of life); and
- **educational issues**

- a. **In its chapter on health and healing** the Commission states that mainstream health and social programs continue to fail Aboriginal people on a massive scale despite genuine efforts on the part of Canadian governments. The system's assumptions about Aboriginal health and wellness and how to promote them are "... wrong for the job." See Appendix 1 for a detailed summary of the Commission's approach to health and healing, including its treatment of housing.

- *From the Commission's perspective the link between health and self-government is critical. It notes that whole health, in the full sense of that term, does not depend primarily on health and healing services. Whole health depends as much or more on the design of the political and economic systems and these have worked badly for Aboriginal peoples. But the dependence is mutual. The new political and economic systems that Aboriginal peoples are struggling to build will not work effectively unless health and healing have been achieved: "In a sense our entire report is about restoring and maintaining whole*

health among Aboriginal people." (Vol. 3, P. 316)

b. With regards to education and training, the Commission notes that "... critical changes in education processes and systems ..." are required before education can serve as a vehicle for cultural and economic renewal. (Vol. 3 P. 434) See Appendix 2 for a summary of the Commission's strategy vis-a-vis education.

- *The Commission also sees an important link between self-government and education. It makes the following recommendations for capacity building for self-government:*

- *establishing an education fund for self-government to support partnerships at the post secondary level;*
- *introducing student bonuses and incentives related to studies in self-government;*
- *increasing co-operative work placements;*
- *establishing distance education models for professional training; and*
- *introducing a Canada-wide campaign to increase youth awareness of opportunities in self-government.*

c. According to the Commission, the "... legacy of our colonial history bears heavily upon Aboriginal people in the form of culture stress. It also distorts the perceptions of non-Aboriginal people, sustaining false assumptions and a readiness to relegate Aboriginal people to the margins of Canadian society." (Vol. 3, P. 586) See Appendix 3 for the Commission's major conclusions with regards to cultural issues.

- *The Commission's strategy for dealing with social issues, including housing and infrastructure, would result in incremental per annum costs to governments of \$1.08 billion by the year 2001. However, by the year 2016, there would be annual savings of \$.53 billion.*

6) The final element in the Commission's strategy is economic development. The Commission makes recommendations in the following areas: **a) building institutions; b) lands and resources; c) employment development; d) education and training; e) business development; and f) the innovative use of income support alternatives.**

- *According to the Commission, in the period 1991 to 2016 over 300,000 jobs will need to be created to bring Aboriginal employment levels to the Canadian standard.*

- *The Commission states that there is "... a strong case for implementing economic development programs at the level of the Aboriginal nation, confederation, or provincial/territorial organization ..." rather than at the community level (Vol. 2, Part 2, P. 838). The Commission cites two reasons for this conclusion: the scarcity and cost of skilled personnel, and questions of scale (more choice for decision makers, access to larger amounts of capital, better linkages among communities, better chance to be competitive in global markets).*
- *The link between self-government and economic development is critical, according to the Commission. Self-government will result in more culturally appropriate development, more rapid decision-making, the development of Aboriginal leadership in economic matters, the reduction in program duplication and greater funding stability. The Commission recommends that, as self-government becomes a reality, federal, provincial and territorial governments enter into long-term economic development agreements with Aboriginal governments or institutions, agreements which would, among other things, transfer all of their economic development programming responsibility and funding to Aboriginal institutions. (Vol. 2, Part 2, P. 835-841)*
- *The Commission believes that "... it is important to develop a national research and development capacity in economic development ..." (Vol. 2, Part 2, P. 844) Such a capacity would best be housed in the Aboriginal Peoples' International University.*
- *The Commission estimates that \$350 million per year in incremental new funding would be required for economic development programs by the year 2001. This incremental funding would decrease to \$250 million per year by 2016. Government revenue gains from increased economic activity would be over \$1.5 billion per annum by 2016.*

Elaborations on the Commission's strategy

- 7) **A critical aspect to the Commission's approach to economic development is business development.** While there is some encouraging news about small business development in Aboriginal communities, some major problems remain to be addressed. Among the more important measures proposed are the following:
- a) **Business advisory services:**
- governments develop business advisory services that combine

professional expertise with knowledge of Aboriginal communities and place these services within economic development institutions of Aboriginal nations.

b) Access to capital:

- banks and other financial institutions take steps to make their services more readily available to Aboriginal communities;
- governments and financial institutions develop micro-business lending and support programs as well as revolving community loan funds;
- federal and Aboriginal governments ensure that programs which provide equity to Aboriginal entrepreneurs continue for at least ten more years with funding exceeding current levels and growing at a minimum of 5% per year;
- the federal government strengthen the network of Aboriginal capital corporations (ACCs) by providing operating subsidies, by enabling ACCs to administer housing funds and by providing interest rate subsidies and loan guarantees on capital raised from the private sector;
- ACCs take measures to improve their efficiency, their collaboration with other ACCs and their responsiveness to segments of the Aboriginal population not well served in the past;
- federal and provincial governments assist in the formation of Aboriginal venture capital corporations by extending tax credits to investors;
- the federal government and appropriate Aboriginal organizations establish a national Aboriginal development bank, staffed and controlled by Aboriginal people with a capacity to provide equity and loan financing to large-scale Aboriginal business projects and to offer development bonds and similar vehicles to raise capital; and
- the federal government and First Nations consider some interim approaches to dealing with constraints posed under the Indian Act including the wider use of guarantees.

c) Access to markets:

- provincial and territorial governments join the federal government in establishing effective set aside programs; and
- the international trade promotion agencies of the federal and provincial governments seek out markets for Aboriginal goods

and services abroad.

- *Appendix 4 contains other elements of the Commission's strategy with regards to economic development, specifically its approach to lands and resources, income support and employment development.*

8) **The legal basis for Aboriginal self-government rests on international law (a people's right to self-determination) and on the *Constitution Act 1982*, in particular Section 35, which guarantees the inherent right to self-government.** Key elements of the Commissions approach to self-government include:

- a) the application of the Charter to Aboriginal governments;**
- b) "inherent" aboriginal jurisdiction in "core" and "peripheral" matters:** (core includes matters of "vital concern to the life and welfare of a particular Aboriginal people, its culture and identity that do not have a major impact on adjacent jurisdictions and that otherwise are not the object of transcendent federal or provincial concern.") (Vol. 2, Part 1, P. 223);
- c) Aboriginal governments can exercise their jurisdiction on core matters without the need to conclude federal and provincial agreements;**
- d) exercising jurisdiction in peripheral matters would require agreements with federal and provincial governments;**
- e) Aboriginal laws on core matters would take precedence over federal and provincial laws, subject only to a strict constitutional test established by the Supreme Court in *R. v. Sparrow*; (Paramountcy in the peripheral area would be negotiated.)**
- f) matters specifically identified as falling in the core area include establishing a system of government including the courts, education, child welfare, family law, health and social services, regulating the use of land, water and natural resources, aspects of criminal law and procedure, culture and language;**
- g) the right of self-government is vested in Aboriginal nations (about 60 to 80 such Nations exist, according to the Commission) and not small local communities; and**
- h) a treaty or agreement dealing with self-government would become constitutionally entrenched.**

- *Appendix 5 contains a comparison, compiled by the Institute On Governance, of the Royal Commission and the federal government's approaches to self-government. One important difference would be the transfer of significant land and resources, noted earlier, so that Aboriginal governments would be economically viable. Coupled with self-government, such a transfer would make Aboriginal governments*

major players in resource development across Canada.

- *Another important difference is the Commission's view that the inherent right to self-government is vested with Aboriginal Nations rather than small local communities. (The federal government is silent on this matter.) The Commission estimates that there are between 60 to 80 such nations in Canada (as opposed to about 1000 local communities) and defines them as "... a sizeable body of Aboriginal people with a shared sense of national identity that constitutes the predominant population in a certain territory or group of territories." (Vol. 2, Part 1, P. 182) See Appendix 6 for the Commission's view on how governance responsibilities would be allocated to Aboriginal organizations at the community, nation, multi-nation and national levels.*
- *The Commission, by way of an example, is clear that certain aspects of environmental management (e.g. storing toxic substances) are peripheral, not core matters. (See Vol. 2, Part 1, P. 219) However, it is likely that certain other environmental management matters would fall in the core area. Environmental assessment is not specifically referred to.*
- *Assuming that some environmental matters fall within the "core" area, Aboriginal nations could exercise jurisdiction without waiting to negotiate. Further, their laws on core matters would be paramount over federal laws. The Commission, however, believes that negotiation of core jurisdiction is the best way to proceed to avoid litigation, among other things.*
- *"Economic life" is a matter that would fall within the sphere of Aboriginal jurisdiction, a matter that would include a broad range of economic powers including regulating business, environmental management, labour force training, management of land and resources, capacity to raise capital, implementation of business incentive programs, regulation of financial institutions, taxation of business activity, and regulation of labour relations." (Vol. 2, Part 2, P. 835) The Commission indicates that some of these areas are core matters, others peripheral.*
- *By way of an example, the Commission notes that provincial laws of general application, such as provincial labour laws, would normally apply to Aboriginal territories. However, an Aboriginal labour law would "...usually displace any conflicting provincial labour laws ..." (Vol. 2, Part 2, P. 217)*

- *Incremental costs for federal, provincial and territorial governments to assist in the establishment and operation of Nation governments would be \$50M per annum by the year 2001 and \$425M per annum by 2016 (see Appendix 9).*
- 9) **The financing of Aboriginal Governments would be based on fundamentally new fiscal arrangements flowing from five principles: self-reliance, equity, efficiency, accountability and harmonization. Specific measures would be as follows:**
- a) **Aboriginal governments would rely on four sources of revenue: own-source financing; transfers from other governments; funding from treaties and land claim settlements; and borrowing authorities for capital expenditures;**
 - b) **With regards to own source revenue, Aboriginal governments would exercise a taxation power for personal income, corporate income, and royalties on land and resource use. As is the practice in Canada, residency would determine who paid taxes to Aboriginal Governments. Non-Aboriginal residents would require a means to be represented in taxation decisions affecting them;**
 - c) **Jurisdiction over gaming would be a matter to be decided in treaty negotiations;**
 - d) **Transfers from other governments would be determined, among other things, by expenditure needs and by the revenue generating capacity and tax effort of Aboriginal governments. The emphasis would be on unconditional as opposed to conditional grants and there would be no incentives for tax havens;**
 - e) **Financial settlements from claims (whether comprehensive or specific) would not be considered as own-source funding for the purposes of calculating fiscal transfers but, with some exceptions, investment income from these settlements would be treated as own-source revenue;**
 - f) **The fiscal relationship would be part of the Canada-wide framework agreement (see point 4 above);**
 - g) **The continuing application of the tax exemption status under the Indian Act, during a transition period, would be a matter for negotiation.**
- 10) **The Commission proposes a capacity-building strategy to guide the transition to self-government. (Vol. 2, Pages 326 to 353) (See Appendix 7 for a summary of this strategy)**

- *As part of its economic development strategy (see point 6 above), the Commission recommends that Aboriginal nations give high priority to establishing economic development institutions with three characteristics: reflective of the Nation's values; designed to be accountable; and protected from inappropriate political interference. Financial support for the development of these institutions would be made available under the proposed capacity building strategy.*
- 11) **In terms of lands and resources in treaty negotiations, federal, provincial and territorial governments should provide Aboriginal nations with lands "... that are sufficient in size and quality to foster Aboriginal economic self-reliance and cultural and political autonomy" (Vol. 2, Part 2, P. 574). Lands and resources would be calculated based on two criteria:**
- a. **developmental needs; and**
 - b. **partial compensation for past and present exploitation of a nation's traditional territory.**
- *In the proposed reallocation of lands and resources, to be financed by federal and provincial governments, third party rights would be respected except in exceptional cases, such as a) where a successful specific claim might have been made; and b) where the land has "outstanding traditional significance."*
 - *Criteria are proposed by the Commission to guide negotiations as to how many additional lands and how much access to resources should be reallocated to Aboriginal Nations. Criteria suggested, among others, are the size of traditional territory, the current and projected Aboriginal population, the current and projected economic and cultural needs, the amount and value of available Crown lands, and the "nature and extent of third-party interests." (Vol. 2, Part 2, P. 576)*
 - *The Commission estimates that \$1B per year would be needed in new funding for land claims by about year 10 of the strategy and would be maintained for as long as needed. (See Appendix 9 - the \$1B figure does not include the cost of the reallocated land.) Such funding would have a significant impact on the economic development prospects of Aboriginal nations.*
- 12) **Negotiations on lands and resources should lead to three categories of lands:**
- a. **category one lands - full ownership rights and jurisdiction for Aboriginal nations**
 - b. **category two lands - shared governance and jurisdiction**

c. category three lands - Crown rights with residual Aboriginal access to historical and sacred sites

- *These three categories of land appear similar to the type of regimes developed under recent comprehensive claim settlements. The nature of Aboriginal jurisdiction in each category would be the subject of treaty negotiations.*
- *Public consultation is an "absolute necessity", according to the Commission, if such negotiations are to succeed. However, these consultations must be accompanied by "a serious program of public education." (Vol. 2, Part 2, P. 614)*
- *On the question of extinguishment of Aboriginal title, the Commission states that Aboriginal people are not likely to have surrendered their land "...knowingly and willingly to strangers." (Vol. 2, Part 1, P. 46) Future claims negotiations should not result in "blanket extinguishment"; partial extinguishment should not be a precondition to negotiations and should be agreed to only after a "...careful and exhaustive analysis of other options." (Vol 2, Part 2, P. 573)*

13) Federal and Provincial governments should adopt interim relief measures (e.g. partial withdrawal of land; revenue sharing on resource royalties, etc.) while negotiations on lands and resources proceed.

- *The adoption of interim measures prior to the conclusion of treaty negotiations could have important ramifications for economic development. The Commission's rationale behind the adoption of such measures is based on the belief that there is a fundamental weakness in the current comprehensive claims process: Aboriginal people "... are forced to rely on the grace and favour of government and industry for development benefits, and governments can create new third-party interests both before and during negotiations." (Vol. 2, Part 2, P. 683)*
- *The Commission recommends the establishment of an Aboriginal Lands and Treaties Tribunal to replace the existing Indian Claims Commission. Such a body would have two broad functions: first, it would adjudicate specific claims referred to it by Aboriginal claimants;*

and second, it would have the power to impose interim relief measures pending successful negotiations of new or renewed treaties. Both of these functions could have important impacts on the economic prospects of Aboriginal groups.

- *The Commission is positive about the use of co-management arrangements between Aboriginal groups and other levels of governments as an interim measure. There is a substantial appendix in the Commission's report which summarizes existing co-management agreements (Volume 2, Part 2, Pages 732 to 774).*

14) **The Commission, within its overall strategy, proposes a series of special measures to be adopted for women, Metis, Elders, youth, the North and urban matters. (See Appendix 8 for a summary of the Commission's approach to these issues.) With regard to urban issues, the Commission notes that almost half of Aboriginal peoples in Canada live in cities and towns and this population is projected to grow by over 40% in the next 25 years. For Aboriginal people to cope in such a milieu, support for enhancing and maintaining their culture and identity is essential. According to the Commission, Aboriginal policy, which was conceived for Aboriginal peoples on their own land base, has not kept pace with the rapid growth of Aboriginal people in urban settings resulting in significant gaps in service and jurisdictional disputes. Specific measures proposed by the Commission to deal with this situation include the following:**

a. measures to support and enhance cultural identity, including:

- governments initiate programs to promote Aboriginal culture in urban settings, including increased access to elders;
- municipal governments and elders co-operate to find ways of facilitating Aboriginal spiritual practices in the urban environment; and
- all governments set aside land in urban areas dedicated to Aboriginal culture and spiritual needs.

b. proposals to improve service delivery systems, especially in the areas of health and social well-being, education and culture:

- provincial and municipal governments give priority to making the existing Aboriginally-controlled delivery system more comprehensive;
- federal and provincial governments ensure a more stable funding base for Aboriginally-controlled service organizations

- through multi-year agreements and adjusting funding to reflect actual service provided;
- Aboriginal representatives participate in the design, delivery and evaluation of all services provided to Aboriginal people by non-Aboriginal organizations and that the staff of these organizations receive cross-cultural training;
- services be delivered without regard to legal or treaty status;
- governments accord higher priority and support for youth programs, particularly those related to leadership development, sports and recreation;
- the federal government devolve the administration of the National Aboriginal Friendship Centre program to the National Association of Friendship Centres; and
- the federal government establish and fund a national urban Aboriginal cultural program for Aboriginal and non-Aboriginal people in large urban areas.

c. measures to improve and enhance the participation of Aboriginal peoples in urban governance:

- positions be designated for Aboriginal representatives on local boards and commissions responsible for providing services to Aboriginal people;
- municipal councils and school boards in areas with large Aboriginal populations establish Aboriginal affairs committees; and
- non-Aboriginal governments seek opportunities to co-manage with Aboriginal people programs and services of interest to them.

d. recommendations to establish self-government by Aboriginal peoples in an urban setting, either on a community of interest basis or a Nation-based approach:

- non-Aboriginal governments support community building among Aboriginal residents wishing to pursue self-government on an urban community of interest basis and participate in negotiations to establish such governments;
- Aboriginal nations with sufficient capacity to assume government responsibility for their urban citizens pursue such initiatives in close consultation with these citizens and ensure that they are represented in political structures and decision-making processes; and

- non-Aboriginal governments give full support to Aboriginal nations when they develop & implement urban initiatives.
- *To help eliminate jurisdictional squabbles, the Commission proposes a series of principles to guide the sorting out of cost sharing responsibilities for the federal and provincial governments for urban settings and elsewhere. These are summarized in point 19 below.*

15) **The Commission makes a number of important recommendations regarding new institutional arrangements including:**

- a. **a new Cabinet Committee on Aboriginal Relations;**
- b. **the replacement of the Department of Indian and Northern Affairs with two departments each with its own Minister, namely:**
 - a department for Aboriginal Relations (to lead the treaty negotiations); and
 - a department of Indian and Inuit Services;
- c. **the Minister of Aboriginal Relations would provide "fiscal and policy guidance" to the Minister of Indian and Inuit Services;**
- d. **establishment of an Aboriginal parliament to provide advice to the House of Commons and the Senate;**
- e. **establishment of an Aboriginal Lands and Treaties Tribunal to be involved in two areas:**
 - specific claims and
 - treaty-making, implementation and renewal;
- f. **establishment of permanent Treaty Commissions in the relevant provinces and territories to facilitate treaty negotiations;**
- g. **the formation of an Aboriginal Arts Council and an Aboriginal Languages Foundation;**
- h. **the establishment of an Aboriginal Peoples' Review Commission to monitor and report to Parliament on, among other things, implementation of the Commission's recommendations;**
- i. **the establishment of a national Aboriginal Development Bank;**
- j. **the establishment of an Aboriginal Peoples' International University; and**
- k. **the establishment of a non-profit foundation in honour of Aboriginal veterans to promote and facilitate education and research in Aboriginal history.**

16) **The Commission's approach would provide for an appreciable expansion of the Crown's fiduciary duties at least as they are now understood by the federal government. Some examples are:**

- a. **the Crown has a special fiduciary obligation to protect the interests**

of Aboriginal people, including Aboriginal title (Vol. 2, Part 2, P. 573) and to take steps necessary to the full realization of existing Aboriginal rights (Vol. 4, P. 296);

- b. the Crown has a positive duty to protect rights concerning lands and resources that underlie Aboriginal economies and the cultural and spiritual life of Aboriginal peoples (Vol. 2, Part 2, P. 573);
- c. the Crown is under a fiduciary duty to implement such measures as are required to reverse the colonial imbalance and help restore its relationship with treaty nations to a true partnership (Vol. 2, Part 1, P. 43);
- d. for the purpose of the priorities established by the Supreme Court in *R. v. Sparrow*, the definition of "conservation" should not be established by government officials but be negotiated with Aboriginal governments and incorporate respect for traditional ecological knowledge (Vol. 2, Part 2, P. 652);
- e. the Crown's fiduciary relationship with Aboriginal peoples requires it to pass legislation to give Aboriginal peoples access to a court remedy for breach of Canada's international commitments to them; and
- f. the Government of Canada has a fiduciary responsibility to support Aboriginal nations and their communities in restoring Aboriginal families to a state of health & wholeness (Vol. 3, P. 53)

- *All of these points, especially b, d, e and f, would affect economic and social development in significant ways. More generally, both federal and provincial governments would need to become more pro-active and vigilant in protecting Aboriginal interests.*

17) **The Commission's strategy does not require constitutional amendment to become a reality. Nonetheless, when constitutional issues are again the subject of intergovernmental negotiation, the following Aboriginal issues must be included:**

- a. explicit recognition that section 35 of the Constitution Act, 1982, includes the inherent right of self-government;
- b. a process for honouring and implementing treaty obligations;
- c. a veto for Aboriginal peoples on amendments to sections of the constitution that directly affect their rights;
- d. recognition that section 91(24) includes Metis people along with First Nations and Inuit;
- e. constitutional protection for the Alberta Metis Settlement Act; and
- f. changes to section 91(24) to reflect the broad self-governing jurisdiction Aboriginal nations can exercise as an inherent right and

to limit federal powers accordingly.

- 18) **The Commission argues that its agenda for change can substantially reduce the costs of Aboriginal marginalization, ill health and social distress.** (By the year 2016 overall savings would be \$375M per year.) In the short term, however, government spending must increase so that 5 years after the start of the strategy, spending is between \$1.5B and \$2B per year higher than it is today and that this level be sustained for some 15 years. (Appendix 9 is a summary of the Commission's financial strategy.)
- 19) **Cost sharing amongst federal, provincial and territorial governments would be determined on the basis of the following principles (see Vol. 4, P. 551-552):**
- a) the federal government would be responsible for the costs of self-government on Aboriginal territory, including health and social services delivered by Aboriginal governments;
 - b) the federal government would be responsible for Aboriginal government services and treaty entitlements outside Aboriginal territories where these benefits exceed benefits generally available;
 - c) with the exception of those residents on-reserve, in Inuit communities or on extended Aboriginal territory, provincial and territorial governments would be responsible for financing services that are ordinarily available to other residents, including any additional costs that will make these programs appropriate for Aboriginal residents; and
 - d) the costs of affirmative action to compensate for historical disadvantage would be shared by federal, provincial and territorial governments on a formula basis reflecting fiscal capacity.
- *Points a) and b) above would have the tendency to increase federal government costs and decrease provincial costs in comparison to the status quo. Whether there would be an overall shift in relative terms between federal and provincial spending would depend on negotiations on point d), the compensation for historical disadvantage, and on the value assigned to the land reallocated to Aboriginal nations as part of treaty agreements. Most of this land would likely be provincial Crown land.*

HEALTH AND HEALING

- 1) **Notwithstanding that medical services are now delivered to Aboriginal people even in the remotest parts of the country and that some causes of morbidity and mortality have been brought under control, the gap in health and well-being between Aboriginal and non-Aboriginal people "... remains stubbornly wide." (Vol. 3, P. 201)**
- 2) **Mainstream health and social programs continue to fail Aboriginal people on a massive scale despite genuine efforts on the part of Canadian governments. The system's assumptions about Aboriginal health and wellness and how to promote them are "...wrong for the job."**
- 3) **Whole health, in the full sense of that term, does not depend primarily on health and healing services. Whole health depends as much or more on the design of the political and economic systems and these have worked badly for Aboriginal peoples. But the dependence is mutual. The new political and economic systems that Aboriginal peoples are struggling to build will not work effectively unless health and healing have been achieved: "In a sense our entire report is about restoring and maintaining whole health among Aboriginal people". (Vol. 3, P. 316)**
- 4) **There is a growing convergence between Aboriginal perspectives regarding what makes people well and those of "the most advanced thinkers in health policy":**
 - health comes from the connectedness of human systems - body, mind, emotions and spirit;
 - economic and environmental factors play a central role;
 - personal responsibility is as important as professional expertise; and
 - health and well-being in childhood affect lifelong health status.
- 5) **In developing policies to support Aboriginal health, all governments should base them on the following four principles:**
 - a. **holism**, that is, attention to the whole person in his/her total environment;
 - b. **equity**, that is, equitable access to the means of achieving health and rough equality of outcomes in health status;
 - c. **control by Aboriginal people** of the lifestyle choices, institutional services and environmental conditions that support health;

- 10) **The Commission's human resources strategy includes the following key elements:**
- a) that the federal government provide funds to the national Aboriginal organizations to permit them to prepare a comprehensive human resources development strategy in health and social services;
 - b) that federal, provincial and territorial governments commit to training 10,000 Aboriginal professionals over a ten year period in health and social services;
 - c) that post-secondary institutions involved in professional certification in health or social services collaborate with Aboriginal organizations to increase the numbers of and support to Aboriginal students including appropriate modification of curriculum and licensing procedures;
 - d) that there be appropriate support for participation of Aboriginal communities in planning, program development and community awareness in relation to human resource development;
 - e) that Governments, health authorities and traditional practitioners cooperate to protect and extend the practices of traditional healing and to facilitate dialogue between traditional healers and bio-medical healers. (The Commission's report contains an Appendix on traditional health and healing - Vol. 3, pages 348 to 361.)
- 11) **For a variety of reasons - Aboriginal people like other Canadians desire choice; an increasing number and proportion of Aboriginal people live in large urban settings; the resources of mainstream systems are vast; there is a need for cooperation and collaboration - the Commission believes that enlisting the support of the mainstream service system must be a significant element of its strategy. Mainstream programs and service providers can contribute in two important ways:**
- a) by supporting the development of Aboriginally controlled service systems; and
 - b) by improving the effectiveness and appropriateness of their own services.
- 12) **The Commission makes two specific recommendations that affect mainstream service providers directly:**
- a) that non-Aboriginal service agencies and institutions (involved in the delivery of health and social services to Aboriginal people as well as other organizations such as unions and professional associations)

- develop and publish action plans outlining ways to improve the effectiveness of their services and to support the development of Aboriginal health and social services; and
- b) that government funding bodies and professional accrediting organizations base their decision-making in part on the development and implementation of such plans.
- 13) **The fourth and last element of the Commission's Action Plan centres on housing and community infrastructure.** The Commission calls for:
- a) a sufficient allocation of funding from Canadian and Aboriginal governments and Aboriginal individuals to ensure that housing needs are fully met within 10 years; and
- b) a doubling in the speed of remediation of water and sanitation services so that such services are adequate within 5 years.
- 14) **Specific recommendations with regards to housing include the following:**
- the federal government complement the resources supplied by First Nations people in a two-to-one ratio through capital and loan subsidies, funding for property insurance and regular maintenance, rental subsidies and financial incentives for home ownership;
 - First Nation governments and people make efforts to marshal more resources through maintenance fees, rents, mortgage payments, and contributions in kind, e.g. sweat equity;
 - First Nation governments assume jurisdiction for housing as soon as possible and develop institutions at the nation or multi-nation level to deliver housing programs, implement their own tenure systems and make innovative use of social assistance for housing purposes;
 - the federal government adopt a similar objective of meeting the need for adequate housing of Aboriginal people living off reserve within 10 years and engage provinces and territories in meeting this objective by, among other things, reinstating and increasing funding for new social housing and mortgage subsidies; and
 - the federal government help Aboriginal people exploit the economic development potential arising from an increase in housing activity through assistance from business development programs and by expanding the involvement of Aboriginal institutions in mortgage financing as agents of CMHC and as mortgage lenders.
- 15) **The incremental costs to government of the Commission's proposed Action Plan are \$750M per annum by the year 2001. However, by the year 2016, there would be yearly incremental savings of \$100M.**

EDUCATION AND TRAINING

The Commission recommends the following directions to guide education reform:

a) education reform would be based on three broad principles:

- the assumption of jurisdiction by Aboriginal governments through three stages - self-starting initiatives under existing legislation; a transition phase where Aboriginal nations begin to exercise law-making powers in core areas with financing from the federal government; and, as a third order of government following the conclusion of treaties;
- lifelong learning through the four stages of the life cycle: child, youth, adult and elder; and
- holistic education aimed at all dimensions - intellectual, spiritual, emotional and physical.

b) specific reforms regarding youth would include the following elements:

- the development of youth empowerment strategies by schools, both Aboriginally and non-Aboriginally controlled;
- the extension of high school programs to communities e.g. distance education, regional high schools in Aboriginal communities etc.;
- the funding of new programs to facilitate secondary school re-entry; and
- financial inducements to secondary schools to develop co-op education programs for Aboriginal young people.

c) the Commission proposes measures aimed at teacher education including:

- expanded financial support to post secondary institutions for existing and new Aboriginal teacher education programs;
- adoption of strategies (career promotion, financial incentives etc.) to increase the number of Aboriginal secondary school teachers; and
- changes to teacher education programs for non-Aboriginal teachers to include an Aboriginal component.

d) recommendations aimed at adults include the following features:

- integrated delivery of adult literacy, basic education, academic upgrading and job training under the control of Aboriginal people - to occur in the short term through delegated responsibility under current jurisdictions;
- increased federal support for post-secondary education for First Nations;

- the development of a scholarship fund for Metis and other Aboriginal students with no access to financial support under existing policies; and
- new initiatives by post-secondary institutions to increase participation, retention and graduation of Aboriginal students (e.g. Aboriginal content in courses, Aboriginal appointments to boards of governors, advisory councils to the president).

e) **finally, an important element of the Commission's approach is a series of recommendations aimed at the establishment of several Canada-wide institutions to be funded by the federal government:**

- an Aboriginal Peoples' International University, functioning in all provinces and territories, with a mandate to, among other things, promote traditional knowledge and pursue applied research in support of self-government;
- an electronic clearing house, possibly within the international university, to facilitate information sharing among communities, self-government workers and individuals;
- a documentation centre on residential schools and relocations, also a potential element of the university; and
- a statistical clearing house to work in collaboration with Aboriginal governments to establish and update statistical data bases and to promote common strategies for collecting and analyzing data.

ARTS AND HERITAGE

According to the Commission, the "... legacy of our colonial history bears heavily upon Aboriginal people in the form of culture stress. It also distorts the perceptions of non-Aboriginal people, sustaining false assumptions and a readiness to relegate Aboriginal people to the margins of Canadian society." (Vol. 3, P. 586) To deal with this situation the Commission proposes a four part strategy:

- a. **identify and protect historical and sacred sites and safeguard Aboriginal heritage from misappropriation and misrepresentation.** Specific measures include the following:
 - governments collaborate with Aboriginal organizations and communities to prepare a comprehensive inventory of historical and sacred sites and to provide through legislation "urgent remedies" to prevent or arrest damage to such sites;
 - governments ensure that Aboriginal people are fully involved in the planning, designing and managing of heritage sites and activities of relevance to their culture;
 - museums and cultural institutions adopt ethical guidelines governing all aspects of collecting and managing artifacts related to Aboriginal culture;
 - the federal government ensure that Aboriginal peoples' interests vis-a-vis their intellectual property are adequately protected through legislation; and
 - governments ensure that Aboriginal people have effective access to cultural and heritage education and the means to participate in joint undertakings with cultural institutions.

- b. **conserve and revitalize Aboriginal languages with a focus on Aboriginal communities, families and social networks through the following measures:**
 - governments recognize that Aboriginal language status and use is a 'core' power in Aboriginal jurisdiction;
 - each Aboriginal nation establish priorities and policies with respect to Aboriginal language conservation and revitalization; and
 - the federal government commit to endowing an Aboriginal Languages Foundation to support language initiatives.

- c. **enhance the presence of Aboriginal people and cultures in the media through policy and legislative change, improved access to the media, training and stable funding.** Specific recommendations include:

- the federal government recognize the special status of Aboriginal language broadcasting in legislation ;
- the CRTC include in its licence conditions for broadcasters in regions with significant Aboriginal populations requirements for fair representation and distribution of Aboriginal programming;
- public and private media outlets purchase and broadcast Aboriginal programming and develop employment equity plans;
- governments recognize the critical role of Aboriginal media in self-government by adopting open access to information policies and by ensuring funding at arm's length from political bodies;
- colleges and universities support access for Aboriginal students in communications and journalism programs by scholarships, counselling services etc.;
- the CRTC establish fee structures and provisions for joint ventures as part of licensing conditions to ensure a stable funding base for Aboriginal media products; and
- governments provide adequate core funding for Aboriginal media in a manner that promotes self-financing and encourages private and corporate support through tax incentives.

d. support the literary and artistic expression of Aboriginal people through such means as the following:

- governments establish an Aboriginal Arts Council to help revitalize and develop Aboriginal arts and literature;
- organizations that provide support to the arts review their awards and grants criteria for relevance to Aboriginal artists and ensure that Aboriginal People are adequately represented on juries, advisory committees, governing boards and staff; and
- governments support training programs for Aboriginal artists, writers and performers and accommodate requirements for appropriate display and performance of Aboriginal arts in the design of public facilities.

ECONOMIC DEVELOPMENT

1. Lands and Resources

The Commission views economic development based on lands and resources as a central feature in rebuilding Aboriginal economies, noting that "... the use of land and natural resources has formed a central part of Aboriginal economies from time immemorial." (Vol. 2, Part 2, P. 850) Its recommendations in this area are as follows:

a) Initiatives Involving the Private Sector

The Commission makes a number of recommendations of direct relevance to resource industries, including the following:

- the development of resource management expertise among Aboriginal people and "... the transfer to them of industry knowledge and expertise"; (Vol. 2, Part 2, P. 644)
- provincial requirements of companies, as part of their operating licences, to develop "land use plans" in consultation with affected Aboriginal communities;
- the requirement by provincial and federal governments that new or renewed resource licences on traditional Aboriginal territories provide significant benefits to Aboriginal communities (employment and training, access to contracts, acceptance of "Aboriginal environmental standards") (Vol. 2, Part 2, P. 856);
- efforts of resource development companies and governments to expand the range of benefits on traditional territories to include a share of economic rents and equity positions for affected communities.

b) Initiatives of Aboriginal Governments

Aboriginal Governments, with the financial and technical support of other governments, would undertake the following initiatives to strengthen their capacity to manage and develop lands and resources:

- establish and strengthen Aboriginal institutions involved in resource management;
- identify the knowledge and skill requirements and undertake appropriate measures in education and training; and
- obtain (through secondments) personnel from other governments and

agencies.

c) Special Measures in Agriculture

The Commission uses the agricultural sector to illustrate some of the concrete issues that need to be addressed and recommends the following measures:

- removal of any barriers in the Canadian Aboriginal Economic Development Strategy (CAEDS) or other federal programs preventing equitable access by Metis farmers;
- restoration of funding by the federal government to Indian agricultural organizations and establishment of similar support programs for Metis farmers;
- changes to land tenure and land use patterns, to be undertaken by Band Councils, so that viable reserve farms and ranches can be established; and
- implementation of special measures to advance the education and training of Aboriginal people in Agriculture.

d) Special Measures in Forestry

The Commission makes a number of recommendations as interim steps to improve access to natural resources. With regards to forestry, the Commission notes that "Although there has been general satisfaction with the Indian forest lands program, some Aboriginal groups ... have criticized the program's focus on timber production." The Commission also reminds the Department of Indian and Northern Affairs and Natural Resources Canada that Canada's fiduciary obligations include "...stewardship of reserve forests." (Vol. 2, Part 2, P. 634) The specific recommendation directed at the on-reserve forest program includes:

- providing adequate funding to complete forest inventories, management plans, and reforestation of Indian lands;
- ensuring that adequate forest management expertise is available to First Nations;
- developing with Aboriginal governments a joint policy statement, delineating respective responsibilities;
- modifying the program objectives to reflect and integrate traditional knowledge and values of First Nations; and
- providing for the delivery of the program by First Nation organizations.

Another interim step has to do with access to Crown forests. The Commission is "... encouraged by the fact that the federal department of

natural resources has been actively promoting First Nations involvement in resource planning and research outside their reserve lands ..." and goes on to cite model forest activities in Saskatchewan and Ontario. The specific Commission recommendation in this area calls for, among other things,

- provinces and territories to improve Aboriginal access to forest resources on Crown land;
- the federal government to promote Aboriginal involvement in provincial forest management and planning;
- provinces to encourage partnerships and joint ventures between large timber licensees and Aboriginal firms; and
- provinces to give Aboriginal people the right of first refusal on unallocated Crown timber close to reserves or Aboriginal communities.

e) Mining, Oil and Gas

Another interim measure proposed by the Commission with important implications for economic development in the lands and natural resource area is the following:

- the renegotiation of existing agreements (e.g. the 1930 natural resource transfer agreements in the prairies and the 1924 agreement with Ontario) to ensure that First Nations obtain full benefit of mineral and oil and gas resources on reserve.

2. Income Support Programs

Making innovative use of income support alternatives is another element of the Commission's approach to economic development. "Conventional Canadian approaches to social assistance have failed Aboriginal people", according to the Commission. In this area, the Commission recommends:

- a) **Reform of social assistance for Aboriginal people so that it is based on the following three principles:**
- that social assistance funds be directed at a more dynamic system of programming which supports employment & social development;
 - that the design and administration of any reform be Aboriginaly controlled; and
 - that a holistic approach be supported, one that is rooted in Aboriginal society and that integrates social and economic development.

- b) **Reforms should not be restricted to supporting participation in the wage economy but also include income support for hunters trappers and fishers** (see Vol. 4 pages 478 to 480 for more detail on hunter and trapper income support programs); and
- c) **Reforms should pursue both individual and community entitlement approaches.**

3. Employment Development

As part of its approach to economic development, the Commission believes that new strategies are required for employment development. These strategies are designed to face the challenges of an Aboriginal labour force that is young and growing, and that is migrating to cities from remote and rural areas in significant numbers where the local job market cannot absorb them rapidly enough. Elements of this new approach include:

- a) **a special employment and training initiative** with the following characteristics:
 - careful matching of training with jobs;
 - use of co-operative education with alternating study & work terms;
 - emphasis on training in science-based and technological fields; and
 - the initiative to be based on partnerships among Aboriginal nations, governments, private sector employers, education and training institutions.
- b) **a new approach to employment equity** which features:
 - a shifting emphasis from the supply side of the problem (counting the number of Aboriginal employees in the labour force) to the demand side by asking employers to project occupations for future hiring;
 - an expansion of the range of employers covered by existing legislation;
 - a request of employers to collaborate with Aboriginal communities and Aboriginal organizations such as employment agencies and education institutions to develop short and long term strategies; and
 - a strengthening of the independent auditing, monitoring and enforcement of employment equity programs.
- c) **a strengthening of Aboriginal employment agencies** by having:
 - governments provide the resources to have these agencies locate in all major areas with stable, long term financial support;

- these agencies play a lead role in the 10-year employment initiative; and
 - these agencies evolve from a federal or provincial program to one under the auspices of Aboriginal institutions.
- d) **improved employment opportunities within Aboriginal communities** by ensuring that:
- Aboriginal governments have their members assume positions in the public services within their communities; and
 - Aboriginal governments adopt policies to buy goods and services from Aboriginal companies.
- e) **the provision of culturally appropriate and affordable child care services.**

COMPARISON OF APPROACHES TO SELF-GOVERNMENT

(This table was prepared by the Institute On Governance)

Factor/Issue	Commission	Federal Government
1. Relation to Constitutional Framework	No constitutional change required (inherent right contained in section 35)	No constitutional change required (inherent right contained in section 35)
2. Canadian Charter of Rights and Freedoms	Would apply to Aboriginal governments	Would apply to Aboriginal governments
3. Scope of the Inherent Right	All matters relating to the "good government and welfare of Aboriginal peoples and their territories"(Vol.2 P.217) Would consist of "core" and "peripheral" matters; "core" defined as "...all matters that are of vital concern to the life and welfare of a particular Aboriginal people; that do not have a major impact on adjacent jurisdictions; and that otherwise are not the object of transcendent federal or provincial concern" (Vol. 2 P. 223)	"matters that are internal to the group, integral to its distinct Aboriginal culture and essential to its operation as a government or institution" (federal policy guide)
4. Who possesses the Inherent Right	60 to 80 Aboriginal nations (including Métis)	Not stated
5. Origin of the Right	International law and basic principles of public morality (a people's right to self-determination) and the common law (now enshrined in Section 35 of the Constitution Act (1982))	Common law now enshrined in Section 35 of the Constitution Act (1982)
6. How would negotiations	Following adoption of a	Federal policy guide lays

proceed	Royal Proclamation, enabling Federal legislation and a National Framework Agreement	out process
7. Means to achieve self-government	new treaties, supplementary treaties, replacement treaties, or other instruments to implement treaties, negotiated among Aboriginal organizations and Federal, provincial, and territorial governments	Negotiated treaties or other mechanisms (legislation, contracts, memoranda of understanding) involving Aboriginal organizations and Federal, provincial, and territorial governments
8. Paramountcy of Laws	Aboriginal laws paramount in core areas (exceptions to meet Sparrow test); paramountcy to be negotiated in peripheral areas	Some paramountcy of Aboriginal laws could be negotiated
9. Alternate Dispute Mechanisms	a) Aboriginal Lands and Treaty Tribunal b) Treaty commissioners across the country to facilitate negotiations	a) No similar vehicle b) Treaty Commission in British Columbia and other existing tripartite fora
10. Resourcing Aboriginal Governments	Significant reallocation of lands and resources to make self governments viable	federal funding to come from existing budgets
11. Taxation	Aboriginal citizens living on their territory to pay personal income tax to Aboriginal governments	Aboriginal group's ability to raise "other-source" revenues and other resources to be a factor in determining Federal funding levels
12. Federal/Provincial cost sharing	a) Funding Aboriginal self government on Aboriginal territory would be a Federal responsibility b) Provinces and territories responsible for services for	The Federal government has primary responsibility for Inuit and on-reserve Indians; Provinces have primary responsibility for other "off reserve"

	Aboriginal people on non-Aboriginal territory (federal top-up for enriched services) c) shared responsibility to compensate for historical disadvantage	Aboriginal peoples
13. Building capacity for self-government	Commission proposes a comprehensive four point strategy (See Vol.2, Part 1, P. 326 to 353)	Issue not addressed in policy; certain aspects could be covered in implementation agreements
14. Forms of self-government	a) Nation-based (land based) b) Public government c) Community of interest (no land base)	Similar
15. Role of Municipalities and third parties	public consultation is an "absolute necessity" but must be accompanied by a "serious program of public education" (Vol. 2, Part 2, P.614)	Federal Government to work with provinces, territories and other groups to develop appropriate consultation mechanisms for those parties directly affected by the negotiations

16. Fiduciary obligations	Does not address issue of whether a self-government agreement could reduce or eliminate certain fiduciary obligations; otherwise report calls for an expansion of the current federal government understanding of its fiduciary duties	Federal government does not retain obligations in relation to subject matters over which it has relinquished control
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COMMISSION'S APPROACH TO GOVERNANCE

1. EDUCATION

LOCAL COMMUNITY	ABORIGINAL NATION	MULTI-NATION	CANADA-WIDE
<ul style="list-style-type: none"> - implements nation policy in local institutions; - decides on instruction of local students; - negotiates tuition agreements in accord with nation policy; 	<ul style="list-style-type: none"> - enacts laws; - establishes an education authority to make policy on goals, tuition agreements, purchase of provincial services, school administration; - distributes funding; 	<ul style="list-style-type: none"> - negotiates policy framework with province; - develops curriculum; - monitors academic standards; - co-ordinates nation support for post-secondary institutions; 	<ul style="list-style-type: none"> - Aboriginal Peoples' International University; - electronic clearing house; - statistical clearing house; - documentation centre; - associations for standard setting and accrediting post-secondary programs and institutions

2. HEALTH AND HEALING

LOCAL COMMUNITY	ABORIGINAL NATION	MULTI-NATION	CANADA-WIDE
<ul style="list-style-type: none"> - manages community health centres (minimum community size is 250); - participates in local and regional planning; - participates in human resource development; - participates with mainstream organizations to develop action plans; 	<ul style="list-style-type: none"> - enacts laws; - establishes policies; - distributes funding; 	<ul style="list-style-type: none"> - manages a network of healing lodges; - promotes cooperation and strategic deployment of resources (regional Aboriginal agencies and councils); 	<ul style="list-style-type: none"> - prepares a comprehensive human resources development strategy for health and social services (national Aboriginal organizations);

3. FAMILY

LOCAL COMMUNITY	ABORIGINAL NATION	MULTI-NATION	CANADA-WIDE
<ul style="list-style-type: none"> - adopts community codes of conduct to create and maintain safe communities; - establishes committees to study family law matters; - manages child care services; 	<ul style="list-style-type: none"> - enacts laws on child welfare and family law matters; - negotiates agreements with provinces on child welfare matters; - establishes policies; - distributes funding; 	<ul style="list-style-type: none"> - consults with provinces and the federal government on family law; 	

4. ARTS AND HERITAGE

LOCAL COMMUNITY	ABORIGINAL NATION	MULTI-NATION	CANADA-WIDE
<ul style="list-style-type: none"> - collaborates with governments to prepare an inventory of historical sites; 	<ul style="list-style-type: none"> - collaborates with governments to prepare an inventory of historical sites; - enacts laws on the status and use of language; - adopts policies and priorities on language; - adopts policies on open access to information; - provides funding to Aboriginal media (arms length); 	<ul style="list-style-type: none"> - collaborates with governments to prepare an inventory of historical sites; - reviews federal and provincial legislation on historical sites; - participates in drafting guideline program criteria and jury process of arts-granting organizations; 	<ul style="list-style-type: none"> - assists in conserving and revitalizing Aboriginal languages (Aboriginal Languages Foundation); - fosters and revitalizes Aboriginal arts and literature (Aboriginal Arts Council)

5. ECONOMIC DEVELOPMENT

LOCAL COMMUNITY	ABORIGINAL NATION	MULTI-NATION	CANADA-WIDE
<ul style="list-style-type: none"> - manages some economic development personnel; 	<ul style="list-style-type: none"> - enacts laws regulating 'economic life'; - negotiates agreements with for the full range of economic development programs; - develops policies and instruments for program delivery; - manages policy capacity, specialist services, and major investment vehicles; - manages lands, resources 	<ul style="list-style-type: none"> - manages Aboriginal Capital Corporations; - manages venture capital corporations; - sponsors special employment and training initiative; 	<ul style="list-style-type: none"> - establishes and manages a National Aboriginal Development Bank; - establishes and manages an Aboriginal International University for research purposes

6. CAPACITY BUILDING FOR SELF-GOVERNMENT

LOCAL COMMUNITY	ABORIGINAL NATION	MULTI-NATION	CANADA-WIDE
<ul style="list-style-type: none"> - rebuilds Aboriginal communities (cultural revitalization and healing, political process for consensus building); 	<ul style="list-style-type: none"> - develops human resource capacities (part of self-government agreements); - arranges to be twinned with governments of similar size and scope; - develops accountability capacities; - develops statistics and data collection capabilities; 	<ul style="list-style-type: none"> - manages training and development (existing institutions); 	<ul style="list-style-type: none"> - Aboriginal Government transition centre to support: development of Aboriginal governments (constitutions, membership codes, community consultations, information sharing); training for negotiations; promotion of excellence in Aboriginal management;

APPENDIX 7

A FOUR POINT STRATEGY FOR BUILDING ABORIGINAL CAPACITY FOR SELF-GOVERNMENT

ELEMENT	IMPLEMENTATION
<p>1. Rebuild Aboriginal Communities</p> <ul style="list-style-type: none"> • cultural revitalization and healing • political process for consensus building 	<ul style="list-style-type: none"> • Aboriginal communities to develop and implement their own strategies
<p>2. Develop Capacity to Establish Aboriginal Governments</p> <ul style="list-style-type: none"> • support for 'constitutional' development e.g. citizenship, institutions, leadership, decision-making • training programs for leaders • design of community consultation, education and referenda • facilitate information sharing 	<ul style="list-style-type: none"> • Establish an Aboriginal government transition centre, funded by the federal government with a predominantly Aboriginal Board
<p>3. Develop Capacity to Negotiate New Intergovernmental Arrangements</p> <ul style="list-style-type: none"> • training for aboriginal negotiators • training aboriginal leaders 	<ul style="list-style-type: none"> • Aboriginal government transition centre working in collaboration with others
<p>4. Develop Capacity to Exercise Government Capacities over the Long Term</p>	<ul style="list-style-type: none"> • part of self-government agreements • transition centre to promote and support excellence in

a) human resource capacities	<ul style="list-style-type: none"> • Aboriginal management twin aboriginal governments with Canadian governments of similar size and scope
b) accountability capacities - formal - informal	<ul style="list-style-type: none"> • Aboriginal governments
c) statistics and data collection capacities	<ul style="list-style-type: none"> • Statistics Canada • Aboriginal governments (self-government agreements)

PERSPECTIVES ON YOUTH, WOMEN, METIS, ELDERS AND THE NORTH

1. Youth

With regards to youth, the Commission concludes that "empowerment" is the one word that best sums up the quest of Aboriginal youth and that "... healing youth to-day will lead to their empowerment tomorrow." (Vol. 4, P.193) Specific measures proposed by the Commission include the following:

- a) **adoption of a Canada-wide policy framework for Aboriginal youth** under the leadership of the Ministry of State for Youth to deal with current programming which is "... scattered, fragmented and reactive." Such a framework would include the following features:
 - **key program areas** to include education, justice, health and healing, sports and recreation and support programs for urban youth;
 - **goals** to include youth participation in program decision-making, tools and resources to establish leadership potential, integration of cultural and spiritual awareness with economic development, and emphasis on employment and training for self-government; and
 - **a biennial conference** to monitor progress and set new priorities.

- b) **adoption of a holistic approach to healing youth which would include the following features:**
 - **establishment of youth centres** on reserves or in other communities where numbers warrant to foster leadership skills (where cultural centres already exist they should develop a youth component);
 - **establishment of cultural camps for youth;**
 - **additional resources for post-secondary education;**
 - **establishment of an Aboriginal sports and recreation advisory council** by the Minister of State for Fitness and Amateur Sport to promote programs and initiatives that are community driven, sustainable and capacity building (e.g. development of coaching skills);
 - **an intergovernmental forum to be convened within one year**

- to discuss the establishment of this advisory council; and **measures to bring youth and elders together** to strengthen the emotional well-being of youth.
- c) **development of a co-operative home construction program** to provide housing, employment and construction skills for Aboriginal youth, skills that will contribute to their economic empowerment.

2. Women

Aboriginal women, the Commission concludes, "...have often been excluded - from their home communities, from decision-making, and from having a say in their future and their children's future ... As Aboriginal people develop and implement self-government, the perspectives of Aboriginal women must guide them." (Vol. 3, P.95-96) Specific measures proposed by the Commission fall into four themes:

a) **their role in Nation-building**

- the federal government provide funding to Aboriginal women's organizations, including urban based groups, to improve their research capacity and facilitate their participation in the design and development of self-government, including citizenship issues.

b) **health and social services**

- Aboriginal governments and organizations provide for the full participation of Aboriginal women in the governing bodies of all Aboriginal health and healing institutions;
- the federal government fund national Aboriginal organizations, including women's organizations, to prepare a comprehensive human resource development plan in health and healing ;
- Aboriginal governments and planning bodies with a mandate to develop new structures for human services establish an inventory of existing women's groups and networks; and
- Aboriginal women in urban areas give Aboriginal and non-Aboriginal service agencies direction and guidance in formulating policies and developing services specifically to meet the needs of urban Aboriginal women.

c) **eliminating vulnerability**

- Aboriginal women participate in the development of Aboriginal justice systems;
- Aboriginal leaders speak out against violence and adopt a policy of zero tolerance; and
- Aboriginal governments adopt the principle of including women, youth, elders and persons with disabilities in governing councils and decision-making bodies.

d) fairness and accountability

- Aboriginal nations or communities, in the context of moving towards self-government, establish committees with women as full participants to study family law issues like the interests in family assets, the division of family assets in a marriage breakdown, adoptions, and spousal and child support.

3. Metis

Metis are distinct Aboriginal people, according to the Commission, neither First Nations nor Inuit. They have been independent peoples for generations. Their independent status dictates that the nation-to-nation approach is as appropriate for dealing with them as it is with for First Nations and Inuit. Specific recommendations include:

- a. governments should undertake nation-to-nation negotiations with Metis nations to resolve Metis issues such as:**
 - making available land bases of sufficient size, location and quality to permit the fulfilment of each nation's legitimate social, cultural, political and economic aspirations;
 - developing temporary land use agreements while land claims negotiations are pending or continuing;
 - developing Metis self-government regimes which would be financial self-sufficient; and
 - recognizing Metis rights to hunt and fish for food.
- b. Metis citizenship in a nation of Metis people be determined by the following criteria:**
 - self-identification as Metis; and
 - acceptance by the nation of Metis people based on criteria and procedures determined by that nation.
- c. the federal government resolve the question of the applicability of Section 91(24) to Metis by:**

- acknowledging that section 91(24) of the *Constitution Act, 1867*, applies to Metis people and base its legislation, policies and programs on that recognition; or
 - collaborate with appropriate provincial governments and Metis representatives to enact a constitutional amendment; or
 - make a reference to the Supreme Court and ask the court to rule on the issue.
- d. **the governments of Canada and Alberta jointly enact constitutional amendments relating to Alberta Metis settlements** with the aim of removing doubt about the constitutional status of the settlements and their lands.
- e. **governments exhibit great care when implementing the Commission's recommendations with regard to education to ensure the preservation and propagation of distinct Metis culture through such means as:**
- establishing separate Metis schools where numbers warrant;
 - creation of a college or faculty of Metis studies; and
 - assisting access to post-secondary education for Metis persons.
- f. **governments, when implementing the Commission's recommendations with regard to culture and language, collaborate with Metis representatives on such measures as:**
- assisting Metis to use their ancestral languages;
 - implementing special measures to save Michif from extinction;
 - supporting research on Metis history;
 - establishing major Metis cultural history centres at significant sites; and
 - repatriating Metis artifacts from public and private collections.

4. Elders

The Commission concludes that "... traditional culture is an important and defining characteristic of Canadian society and that Canadians must support Aboriginal peoples in their efforts to maintain their culture. Elders are the source and the teachers of the North American intellectual tradition..." (Vol. 4, P. 143) and, consequently, are essential to its perpetuation and renewal. The Commission makes numerous recommendations concerning the role of Elders in its treatment of education, culture language and values, justice, governance, health and healing,

lands and resources, and social issues. Specific recommendations in this chapter deal with the following matters:

a. participation of Elders in Nation building

- governments acknowledge the essential role of Elders and the traditional knowledge they contribute in rebuilding Aboriginal nations through such measures as involving them in the planning and monitoring of nation building activities and supporting gatherings and networks of Elders to share knowledge and experience.

b. protection of sacred sites

- Aboriginal elders be involved in the formulation and implementation of policies for the preservation and protection of sacred sites; and
- in co-management situations, Elders should be Board members.

c. access to public lands for traditional purposes

- federal, provincial and territorial governments recognize Aboriginal people's right of access to public lands for the purpose of gathering traditional herbs, plants and other traditional medicines where the exercise of the right is not incompatible with existing use.

5. The North

With regard to the North, the Commission found a paradox. On the one hand, it is the part of Canada "... in which Aboriginal peoples have achieved the most in terms of political influence and institutions appropriate to their cultures and needs." On the other hand, the North is a region with little influence over its own destiny, given that the levers of political and economic power are held outside the North (Vol. 4, P. 387). The Commission proposes a four part strategy to help deal with this situation:

a. a series of special measures relating to governance of the North:

- that a treaty commission be the means by which the governing authorities of Dene communities are determined;
- that the new territorial government in the western Arctic

- exercise lead responsibility in relatively few areas;
- that communities wishing to participate in a treaty implementation process be given the same flexibility as in a lands claims process regarding subject matter and quantity of land; and
- that future arrangements allot clear responsibilities between Aboriginal nation governments and territorial institutions.

b. the recognition of environmental stewardship as an essential element of all future northern policies and programs through:

- recognition and support by the federal government for the contribution of Aboriginal traditional knowledge to environmental stewardship;
- Aboriginal participation in future international agreements regarding the environment;
- close monitoring by Health Canada of contamination of northern country food and the rapid communication of results of this work to northerners; and
- support by all governments of co-management regimes.

c. measures to support the northern economy including:

- the restructuring of all social assistance and income supplement programs to ensure that they become instruments in promoting a mixed economy (including the use of social assistance spending as income supplements to community employment or traditional harvesting) and that they take into account factors unique to the North (e.g. distance, high cost of living etc.); and
- the delivery through Aboriginal economic organizations of skilled management support in areas such as financing and marketing to small businesses.

d. investments in people to include such measures as:

- governments' adopting hiring criteria that take into account life experiences and capacity to develop new skills along with, or in place of, formal education requirements;
- increased opportunities for job sharing, periodic leaves and shift work to accommodate the demands of traditional economic activities;
- stable multi-year funding to northern education institutions

that have the capacity to deliver the education and training needs for self-government and a diversified economy;

- continuing support for the development of institutes that gather and research traditional knowledge; and
- the incorporation of traditional knowledge in all appropriate institutions including regulatory boards, education and training systems, research institutes etc.

**FINANCIAL ESTIMATES CONTAINED IN THE REPORT OF THE
ROYAL COMMISSION ON ABORIGINAL PEOPLES**

(Prepared by the Royal Commission on Aboriginal Peoples)

There are three principal categories of financial estimates contained in volume five of the final report:

a) the loss to the Canadian economy from the current social and economic situation facing Aboriginal people in 1996 and in twenty years;

b) the current funds all governments spend directly and indirectly in relation to Aboriginal people in 1996 and in twenty years;

c) the projected costs to all governments of the Commission's recommendations:

**five years after the start of its strategy;
twenty years after that;
in the longer term.**

a) Loss to the Canadian economy

This is made up of two components: the incomes Aboriginal people do not have because they are employed at much lower rates than other Canadians, and the costs of their greater use of social assistance, medical services and other remedial measures that are the direct result of their economic marginalization.

The first cost - the income loss - is estimated at \$5.8 billion in 1996. This is calculated comparing the employment levels and earnings of Aboriginal people with those who live in neighbouring communities facing the same employment possibilities. The analysis of this is found in volume 5, pp 24 - 33.

The second cost relates to the much higher use of remedial services and social assistance by Aboriginal people than other Canadians. These costs come to \$2.7 billion in 1996. Analysis of these calculations is found in volume 5, pp 33 - 46.

Together these costs amount to \$7.5 billion in 1996 and represent a loss to the Canadian economy. They are estimated to escalate to \$11 billion by 2016. The

calculation of this projection is found in volume 5, pp 47 - 49.

b) Current funds spent by all governments in relation to Aboriginal people

The total costs of the federal, provincial, territorial governments and the education costs of the municipal governments for 1992-93 was \$11.6 billion. (1992-93 was the last year that comparable figures for all governments were available.) These costs include all programs targeted at Aboriginal people as well as their utilization of general programs available for all Canadians. **The Commission estimates that these costs are likely closer to \$13 billion in 1996 and could be expected to rise to close to \$17 billion in twenty years if current trends continue.** Analysis of these costs can be found in volume 5, pp 34 - 42.

c) Projected costs of the Commission's recommendations

The Commission would not expect that major expenditures arising from its recommendations would start for some 18 months, given the time needed for analysis of its recommendations and consultations with Aboriginal organizations and provincial governments. That might bring major new expenditure beginning in 1998/99.

In these early years of the strategy's implementation, the Commission recommends an increase in spending of from one half to one percent of the federal government's current overall program expenditures which are currently running at about \$110 billion.

Five years after the start of this strategy, the Commission proposes spending levels to reach between \$1.5 and \$2 billion over current spending, targeted at the specific measures it recommends including payments for land claims. It believes that this level of spending should be sustained for a further fifteen years.