

The Limitation of Actions Amendment Act

J E N N I F E R K U B A S

I. INTRODUCTION

In May 2002, the Legislative Assembly of Manitoba enacted Bill 8—*The Limitation of Actions Amendment Act*.¹ According to the Explanatory Note attached to the statute, this amendment makes the following two changes to *The Limitation of Actions Act*:

First, it provides that an action for assault can be commenced at any time, regardless of when the assault took place, if:

- the assault was sexual in nature;
- the victim had an intimate relationship with person who committed the assault; or
- the victim was financially, emotionally, physically or otherwise dependent on a person who committed the assault.²

Secondly, the amendment provides that the current 30-year ultimate limitation period that arises if a person is or has been under a disability, including being under the age of majority, does not apply for these particular actions. The amendment also includes transitional provisions that allow for these types of specific actions to be commenced even if a limitation period that applied to the action before the enactment has expired. However, the most expansive provision states that actions founded on the specified grounds stated above may be commenced regardless of whether a court had dismissed a previous action because of the limitation period.³

¹ S.M. 2002, c. 5, amending C.C.S.M. c. L150.

² *Ibid.* at Explanatory Note.

³ *Ibid.* at Explanatory Note.

A. Background

The Limitation of Actions Act is the governing law regulating when civil actions can be commenced. Its goals and objectives have been set out as follows:

The *Act* sets out time periods within which civil legal proceedings must be commenced. If legal proceedings are not commenced within the limitation period applicable to the particular claim, a defendant can raise the defence that the claim is statute barred. This defence results in immunity from liability for the defendant, despite the merits of the claim. The objective of limitations law is to ensure the timely resolution of legal proceedings, while at the same time balancing the interests of plaintiffs with those of defendants and society.⁴

However, in recent years many have criticized statutes of limitations as not providing justice for Aboriginal men and women who suffered physical and sexual abuse in residential schools operated by churches on behalf of the federal government. Critics of the prior *Limitation of Actions Act* cite cases where victims of residential school abuse have only recently become aware of past abuse and the potential for civil recourse in the court system. However, due to the statutorily imposed limitation period many of these claims could never be tried. These perceived injustices, imposed by *The Limitation of Actions Act*, have resulted in the enactment of Bill 8.

II. WHY AMEND THE STATUTE?

A. A Call for Justice

If *The Limitation of Actions Act* was enacted to strike a balance between the rights of the plaintiff and those of the defendant, then why amend the legislation so heavily in favour of the plaintiff? The answer is in the form of what the government, and for all purposes the people of Manitoba, believe is justice for victims of aboriginal residential school abuse. In fact, this reasoning was the subject of the throne speech on 13 November 2001. In his speech, the Hon. Peter Liba, Lieutenant Governor of the Province of Manitoba, announced that the Government of Manitoba has made a special commitment to carry out the recommendations of the Aboriginal Justice Implementation Commission. As part of this commitment, the government pledged that it would bring Manitoba's *The Limitation of Actions Act* in line with the legislation of other provinces.⁵

⁴ British Columbia Law Legal Institute, "Updating the *Limitations Act*" (June 2001), online: Description of the Committee Updating the *Limitations Act* <<http://www.bcli.org/pages/projects/limitupd/description.html>>.

⁵ Manitoba, Legislative Assembly, *Hansard*, (13 November 2001) (Hon. P. Liba).

On 26 November 2001, Bill 8 passed both the first and second readings and was referred to committee with little legislative debate. Justice Minister Gord Mackintosh, in his motion to have the bill read a second time, stated that this bill would allow “people to file claims and proceed to justice.”⁶ These comments were made in relation to a recent decision of the Manitoba Court of Appeal in which the court determined that *The Limitation of Actions Act* precluded almost all claims of residential school abuse because of the expiry date for actions based on assault.

B. M. M. v. Roman Catholic Church of Canada⁷

The Limitation of Actions Act and its effect on residential school abuse survivors has been in the media since 1999 due to the court action brought by two former students of the Pine Creek Residential School.⁸ In a sworn affidavit, Margaret Moar (M.M.) said that she was beaten and sexually assaulted from the time that she was nine until she was twelve years old. Most of the assaults took place in the school’s infirmary, where she spent years isolated as a result of contracting tuberculosis. Like other victims of residential school abuse, she stated that she only recently discovered the abuse while undergoing therapy. Under *The Limitation of Actions Act* in Manitoba, a victim of assault had a time limit of two years to bring forth a court action. However, if a victim learned of an old assault, then he or she could apply to have the matter brought to the courts, as long as it was within the ultimate limitation period of 30 years. Any assault 30 years or older was automatically statute barred.

In November 1999, Queen’s Bench Judge Perry Schulman ruled that the Moar suit could be heard despite the 30-year limitation period, as set out by the *Act* for such cases. However, the Manitoba Court of Appeal overturned this decision, and ruled that the lawsuit initiated by Margaret Moar could not proceed because the ultimate 30-year time limit for such actions had expired. In its ruling, the court stated that “it would be an invitation for the court to exceed its proper judicial role.”⁹ The court decided that the time limit the statute provided for was not intended to start at the time the victim became aware of the abuse. Rather the statute offered an ultimate 30-year time limit from when the damage occurred regardless of ‘discoverability’ of the incident. The court

⁶ Manitoba, Legislative Assembly, *Hansard*, (26 November 2001) (Hon. G. Mackintosh) [Mackintosh].

⁷ [1999] M.J. No. 488 (Q.B.) (QL).

⁸ Bud Robertson “Catholic Orders Asking Court to Impose Time Limit on Abuse Case, Lawyer says Hundreds of Potential Law Suits Could be Wiped Out” *Winnipeg Free Press* (4 May 1999) A4.

⁹ *M.M. v. Roman Catholic Church of Canada*, [2001] M.J. No. 401 (MBCA) (QL).

went on to say to state that “if ... remedies or compensation are deemed to be necessary to rectify the situation, then that initiative must come from government policy and legislative action.”¹⁰

C. The Effect of the Court of Appeal Decision

The Media covered the impact of this decision. Both the *Winnipeg Free Press* and the *Winnipeg Sun* ran stories about how this decision created injustice for those who suffered in residential schools. In the *Winnipeg Free Press*, Bill Percy, a lawyer who represents hundreds of survivors and heads the Manitoba chapter of the organization ‘Canadian Lawyers for the Advancement of Survivors,’ voiced concerns about how this court case may become long and drawn out, and that many survivors of abuse would die before a final decision would be reached.¹¹ The *Winnipeg Sun* quoted Grand Chief of the Assembly of Manitoba Chiefs, Denis White Bird, as stating that “this is a travesty of justice. It only goes to follow what we’ve said in the past—the courts lack a social conscience when it comes to native people.”¹²

Exactly two months after the Manitoba Court of Appeal rendered its decision, the Government of Manitoba introduced *The Limitation of Actions Amendment Act*. The next day, while commenting on the Court of Appeal decision, Attorney General Gord Mackintosh was quoted in the *Winnipeg Free Press* as saying, “I think in the interest of justice, barring these claims on the basis of such a technicality has to be dealt with.” He went on to state that “when the court has identified a technicality that will bar those who want to have their day in court on claims of child abuse we had to act. To do otherwise is to signal that perhaps we don’t think child abuse is important.”¹³

In understanding how barring claims due to a statute of limitations is deemed to create such widespread injustice for those that attended residential schools, the legacy of these schools in Canada must be considered. Without this broader context, one cannot get a true sense of why the government believed it was necessary to amend the *Act*.

¹⁰ *Ibid.*

¹¹ Mia Rabson “Abuse case ruled to old for court. But Province vows compensation” *Winnipeg Free press* (29 September 2001).

¹² Frank Landry “Manitoba Court tells residential school complaints their suits are too old” *Winnipeg Sun* (27 September 2001).

¹³ Mia Rabson “NDP to Lift Limit on Abuse Claims, Legislation Comes After Court Ruling” *Winnipeg Free Press* (27 November 2001).

III. THE LEGACY OF RESIDENTIAL SCHOOLS IN CANADA

The history and effect of residential schools in Canada has been canvassed from almost every angle. The involvement of the federal government in the creation of the residential school systems for aboriginals is one of the factors that persuaded the Manitoba government to act. In June 2001, the federal government created the Office of Indian Residential Schools Resolution of Canada. The minister responsible for this office is the Deputy Prime Minister. In his opening message of the *Report on Plans and Priorities*, the Deputy Prime Minister said this office was created “[I]n recognition of the government’s commitment to address the legacy of the schools.”¹⁴ Over 130 residential schools operated throughout Canada. Of the 130 schools that existed, it is estimated that up to 100 of the schools could be involved in litigation today.¹⁵

A. The History of Residential Schools

Both the Department of Indian and Northern Affairs and the Office of Indian Residential Schools Resolution have websites that give an historical overview of what the Government of Canada’s role was in the creation and maintenance of these schools. Both official websites give the following history of the residential schools system:¹⁶

- Residential schools were institutions for aboriginal children between the ages of 5 and 16.
- The earliest residential schools predated confederation and were run by church missionaries.
- The federal government began to play a role in the development and administration of this system in then mid 1870’s mainly to meet its obligations under the *Indian Act*,¹⁷ to provide education to status Indian and assist with their integration into broader Canadian society.¹⁸

¹⁴ Treasury Board of Canada, *RPP 2002-2003 Office of Indian Residential Schools Resolution of Canada*, online: RPP 2002-2003 - Office of Indian Residential Schools Resolution of Canada <http://www.tbs-sct.gc.ca/est-pre/20022003/irsrc-rppic/oisr02rpp02_e.asp> [Residential Schools Resolution].

¹⁵ *Ibid.* at Raison d’être.

¹⁶ *Supra* note 14; Indian and Northern Affairs Canada, *Gathering Strength – Canada’s Aboriginal Action Plan*, online: Gathering Strength – Canada’s Aboriginal Action Plan – Indian and Northern Affairs Canada <http://www.ainc-inac.gc.ca/gs/chg_e.html>.

¹⁷ R.S. 1985, c. I-5.

¹⁸ Residential Schools Resolution, *supra* note 14.

- At any one time there were no more than 100 of these schools in operation.
- It is estimated that approximately 100 000 children attended these schools over the years that they were in operation.

The government operated nearly every school in partnership with various religious organizations until April 1969, when the government assumed full responsibility for the school system. Many church organizations remained involved in administering schools through contractual arrangements. The majority of these schools ceased to operate by the mid-1970s, and the last federally run school in Canada closed in 1996.¹⁹

Throughout the years many individuals have come forward with disclosures of physical and sexual abuse. Many of these accounts were brought to the attention of the government during the hearings of the Royal Commission on Aboriginal Peoples. In 1991, The Royal Commission on Aboriginal Peoples (RCAP) was created to improve the relationship between Aboriginal people and non-Aboriginal people in Canada. The commission held 178 days of public hearings, visited 96 communities, consulted with dozens of experts, and commissioned research studies and reports. The findings of this commission were tendered in a final report, issued in 1996. Among other things, the RCAP report outlined comprehensively for the first time the impact that Indian Residential Schools had on Aboriginal people. The commission went on to state that “the residential school system for Aboriginal people was ‘an act of profound cruelty’ rooted in racism and intolerance. The commission identified the source of the problems as Canadian society, Christian Evangelism, and the policies of Canadian churches and government.”²⁰

In 1998, the federal government issued its response to the RCAP report named *Gathering Strength: Canada's Aboriginal Action Plan*.²¹ This plan outlines a four-point strategy for addressing residential school issues, the first of which was to issue an apology. The Government of Canada delivered a statement of reconciliation to all Aboriginal people, which included an apology to those who experienced sexual and physical abuse while attending residential school. The points of the action plan include; promoting healing by way of establishing the Aboriginal Healing Foundation; developing litigation strategies that move cases

¹⁹ *Ibid.*

²⁰ Robert Matas “Last Resort: Frustrated Native Abuse Victims Turn to Courts to Force Ottawa to Redress the Sins of the Past” *The Globe and Mail* (11 December 1997).

²¹ *Gathering Strength, supra* note 16.

away from the courts and into more compassionate processes; and utilizing dispute resolution programs.²²

B. The Law Commission of Canada

During the same period of time that the federal government was drafting its response to the RCAP findings, the issue of residential school abuse was visited by the Law Commission of Canada. In November 1997, Federal Justice Minister Anne McLellan asked the Law Commission of Canada to prepare a report on how to address the harm caused by both physical and sexual abuse in institutions operated and funded by the federal government. These institutions included residential schools for Aboriginal children.²³ The Commission recognized three essential facts that led to the perpetuation of abuse in these institutional settings. First, the majority of children placed in institutions came from marginalized or underprivileged backgrounds, including Aboriginal children. Secondly, a significant power imbalance existed between the children and those in charge of these institutions. Many perpetrators of abuse had the moral weight of a respected religious order. The third factor recognized as contributing to abuse was the fact that there was little if any independent monitoring of what went on inside these institutions.

In its report, the Commission singled out the experiences of Aboriginal children in residential schools for particular study because their presence in residential schools was the result of a federal policy of assimilation. It concluded that residential schools deprived Aboriginal children of their language, cultural traditions, and religion—they were made to feel ashamed of their heritage. Consequently, the residential school system inflicted terrible damage not just on individuals, but also on families and entire communities. The Commission also considered the needs of survivors and potential forms of redress. In its assessment, the Commission stated that accountability of those individuals and organizations that inflicted abuse was essential.²⁴

The effects of residential school still haunt many that attended these institutions. Although, there has been no comprehensive study on how rampant abuse was in residential schools, a poll by the Nuuchahnulth tribal council indicated that 30 to 83 per cent of its members believe that

²² Residential Schools Resolution, *supra* note 14.

²³ Law Commission of Canada, *Institutional Abuse: Restoring Dignity, responding to Child abuse in Canadian Institutions, Executive Summary*, online: Institutional Child Abuse <http://www.lcc.gc.ca/resources/news_releases-en.asp?id=75> [Executive Summary].

²⁴ *Ibid.*

they suffered some form of abuse while in school.²⁵ Of these members, half believe that they still suffer from the effects. In fact, some psychiatrists who treat former residential school students have noted that they present similar symptoms. This constellation of symptoms is known as ‘residential school syndrome.’ It is similar to ‘post-traumatic stress disorder,’ but with a specific cultural impact. A leader in treating this condition has stated that “[h]ealing this disorder has long term implications for Canadian Society.”²⁶

IV. OTHER PROVINCES’ *LIMITATION OF ACTIONS ACTS*

The historical reasons for enacting this amendment in Manitoba must be viewed against the backdrop of how other provinces have dealt with their Limitation of Actions Acts and the subject of residential abuse. Justice Minister, Gord Mackintosh, again reiterated that bringing Manitoba’s *Limitation of Actions Act* in line with other provinces would create justice for Manitobans. In debate on the second reading of Bill 8, Minister Mackintosh said that “this amendment will allow claims to proceed that would be precluded right now only in Manitoba. I think for us to sit by while claimants in Ontario or Saskatchewan, for example, are being dealt with but here in Manitoba they are being barred, clearly, I think, calls on the Legislature to act.”²⁷

However, a close examination of provincial statutes of limitations reveals that there is variation as to how far the statute leans in favour of the plaintiff. Nova Scotia’s *Limitation of Actions Act*²⁸ is formulated to try to strike a balance between victims and the accused. There still exists a limitation period, however it does not start to run until the victim is reasonably capable of commencing a proceeding.²⁹ New Brunswick and Prince Edward Island do not have any special limitation period for sexual and physical abuse.³⁰ Some provinces have legislation similar to that enacted in Manitoba. British Columbia, Saskatchewan and all three territories have legislation in which there is no limitation period for assault based on sexual and physical abuse.³¹ In fact, Manitoba’s Bill 8 is

²⁵ Charles R. Brasfield, MD, PhD, FRCPC, “Residential School Syndrome” (2001) 43 BC Medical Journal 78.

²⁶ *Ibid.*

²⁷ Mackintosh, *supra* note 6.

²⁸ R.S.N.S. 1989, c. 258, s. 5.

²⁹ *Ibid.* at s. 1.

³⁰ New Brunswick’s *Limitation of Actions Act*, R.S.N.B. 1973, c. L-8, s.4; and P.E.I.’s *Statute of Limitations*, R.S.P.E.I. 1988, c. S-7, s 2.(1)(d).

³¹ British Columbia’s *Limitation Act*, R.S.B.C. 1996, c. 266, s. 3(4)(k),(l); Saskatchewan’s *Limitation of Actions Act*, R.S.S. 1978, c. L-15, s. 3.1, Yukon’s

identical to Saskatchewan's amending legislation that was passed in 1993. The Justice Minister gave no reason as to why the government chose to adopt Saskatchewan's legislation over that of other provinces. The Hon. Gord Mackintosh made mention in debate about Ontario's statute of limitations, and an amendment to its *Limitations Act*,³² which would create similar provisions for victims of sexual and physical abuse found in Manitoba's and Saskatchewan's legislation, has been proclaimed to take effect on 1 January 2004.

A. Debate about the Amendment

Bill 8 seemed to pass through the legislature with relatively little debate. The first and second readings were held on the same day. The Official Opposition did not express any reservations to supporting the bill as it was drafted. However, at the Standing Committee for Law Amendments, some criticism was levelled against it. A private citizen, George Bergen, wished to expose the controversy surrounding 'Recovered Memory Syndrome.'³³ He criticized the amendment for legitimizing recovered memories. He also went on to state that the framework for the legislation is wrong. He pointed to the Minister of Justice's justification for Bill 8. The Justice Minister stated during second reading, that for many victims, memories of abuse lay dormant until evoked by a therapist, and that it would be unjust for those victims not to have a chance to face their perpetrators in a court of law.³⁴ However, according to Mr. Bergen, recovered memories are events remembered by a person with the help of a therapist, which have not, in fact, occurred. The memories are so vivid, that to the person who has had them uncovered, it becomes as if the events actually happened. For the person who has recovered memories, there is no way of distinguishing these false memories from the reality of the past, with most cases involving recovered memories being specifically about instances of sexual abuse. Mr. Bergen went on to state that the phenomenon known as 'Recovered Memory Syndrome' has credibly been discredited as false.

Jon Gerrard, Leader of the Liberal Party, was the sole opponent to the amendment in the legislature. His opposition to the legislation was, in part, related to the presentation of Mr. Bergen. He stated that the legislature should approach retroactive legislation cautiously, since

Limitation of Actions Act, R.S.Y. 1986, c. 104, s. 2(3); Northwest Territories' *Limitation of Actions Act*, R.S.N.W.T. 1988, c. L-8, s. 2.1(2); Nunavut's *Limitation of Actions Act*, R.S.N.W.T. 1988, c. L-8, s. 2.1(2).

³² S.O. 2002, c. 24.

³³ Manitoba, Legislative Assembly, *Hansard*, (7 May 2002) (George Bergen).

³⁴ Manitoba, Legislative Assembly, *Hansard*, (26 November 2001) (Hon. Gord Mackintosh).

defendants may be defending claims related to recovered memories.³⁵ Dr. Gerrard also voiced other concerns with respect to the passing of this bill. In fact, he stated that this bill was bad law. His concerns were based on whether there were better ways for the Government of Manitoba to redress the wrongs that occurred in residential schools. He suggested that there be careful debate, with expert opinion as to what limitation of actions should exist for cases of physical and sexual abuse in the future.³⁶ Although he had major concerns and problems with Bill 8, the Liberal leader, along with every other member of the legislature, voted for the passing of Bill 8 at third reading. Perhaps the pressure to look supportive of Aboriginals issues, and specifically residential schools, had an overwhelming effect on the legislature.

Public support has almost been completely one sided. Perhaps the public, aware of the cruelty many Aboriginal people went through in residential school, is unwilling to appear unsupportive of this bill. The press, in its coverage of Bill 8, has generally presented the bill as a positive step toward justice after the Court of Appeal ruling in *M.M.*³⁷ One of the few public criticisms of this bill came in the form of a letter to the editor from Jean-Paul Isabelle, an Oblate priest. He stated that before *The Limitation of Actions Act* should be amended, clarifications are needed. He also said that the statute of limitations exists for a legitimate purpose—after thirty years, it is extremely difficult, if not impossible, to establish the facts of abuse. This is especially true when the perpetrators are deceased. Father Isabelle supported this view by stating that:

[T]he rights of the accused, especially in the case of a deceased person, must be protected with equal vigour as those of the alleged victims. It is a basic tenet of our justice system that the burden of proof rests with the accuser, and not with the accused. This proof is difficult to establish. Therefore the reasons for the abrogation of the time limitation must outweigh the dangers against which the law was intended to protect.³⁸

V. A CYNICAL LOOK TO THE FUTURE

The amendment to *The Limitation of Actions Act*, took less than seven months to become law. The Justice Minister asked the Legislative Assembly to review this bill expeditiously, as it was a matter of great concern to the ageing victims of residential school abuse. Bill 8 was to

³⁵ Manitoba, Legislative Assembly, *Hansard*, (22 May 2002) (Jon Gerrard).

³⁶ *Ibid.*

³⁷ Mia Rabson “NDP to Lift Limit on Abuse Claims, Legislation Comes After Court Ruling” *Winnipeg Free Press*, (27 November 2001).

³⁸ J.P. Isabelle, Letter to the Editor, *Winnipeg Free Press* (30 December 2001).

fill a gap in legislation and allow residential school abuse victims to have legal recourse, regardless of how far in the past the incidents occurred. Some may applaud the legislature for acting so swiftly, while others may feel that Bill 8's negative impacts were not canvassed with any vigilance. In reality, the legislature had no real reason to focus in-depth on this amendment. The Government of Manitoba would not be economically affected by any future litigation since claims for residential school abuse are the responsibility of the federal government. This fact, coupled with the positive press coverage the legislature received about correcting injustice, left little reason for members of the legislature to oppose the amendment.

A. Will The Enactment Help The Victims of Residential School Abuse?

There is a concern that this amendment may give false hope, and take away any real chance for victims of residential school abuse to resolve forever the pain of past abuse. Civil litigation is expensive, both emotionally and financially. Many victims of residential school abuse do not have the funds to commence the expensive litigation process. Many sign contingency agreements with lawyers that can eat up one-quarter to one-half of any settlement. In the end, after a long drawn out process, victims may get less than what they actually expected; contributing to their disillusionment with the system. Also, there is the fear that survivors of abuse may be pressured by family and lawyers into starting litigation, regardless as to whether it is in their own best interests.

Secondly, and perhaps more importantly, the lure of a large settlement may be enough for some survivors to start painful and overwhelmingly emotional court cases. Lawyer David Peterson, who represents former residential school students, believes that "the legal process is a horribly ineffective way of dealing with this [abuse]. They need something to repair the damage."³⁹ The Law Commission of Canada's report also outlines the drawbacks of litigation. Victims of abuse feel re-victimized by testifying. Civil actions are formal and adversarial in nature. All of this can take a personal toll on the victim. Even if a victim is successful, the compensation award does not "address the broader range of survivors' needs such as therapy, counselling or education."⁴⁰ Gabe Mentuck, one victim that went through the court process, said that he was not prepared for the government's lawyer's sexual questions in a

³⁹ Robert Matas, "Last resort: Frustrated Native Abuse Victims Turn to Courts to Force Ottawa to Redress the Sins of the Past" *Globe and Mail*. (11 December 1997).

⁴⁰ Executive Summary, *supra* note 23.

pre-trial conference. The process was compared to “pulling a bandage off a psychological wound but pulling it off very slowly.”⁴¹

Another worry is that many victims, in hopes of larger settlements, may choose to face the court system over federal government initiatives for settlement. The Government of Canada, through the Office of Indian Residential Schools Resolution, has set up alternative dispute resolution projects. Through this project, claimants would likely only receive seventy per cent of the total award to which they may be entitled.⁴²

Lastly, civil litigation may be an exercise in futility for those claimants whose awards are against bankrupt defendants. Many of the residential school claims in Manitoba are against schools run by the Oblates du Marie Immaculee, a Roman Catholic Order. The order has always offered to pay their share of money for a settlement. But negotiations with the federal government have collapsed. Currently, the Oblates pay \$50,000 in legal fees each month. With over 2 500 claims against them, the Oblates have even started digging into their retirement fund.⁴³ Currently, the Oblates have made an application for bankruptcy protection under the *Companies Creditors Arrangement Act*,⁴⁴ in “an attempt to move negotiations outside the ‘adversarial arena’ of the legal system.”⁴⁵

As stated, the aims of the amendment to *The Limitation of Actions Act* were to correct the injustice created by statutorily imposed time limits. But no thorough study of the bill was ever done to see if it could meet these lofty objectives. Bill 8 certainly allows for the commencement of litigation by victims of residential school abuse; however it is too soon to tell if this amendment will provide a meaningful resolution.

⁴¹ Sue Bailey “Lawyer's personal sex questions shock native residential school claimant” *Canadian Press* (7 July 2002).

⁴² Residential Schools Resolution, *supra* note 14.

⁴³ Margaret Wentz “The Priests Who’re Guilty of Nothing” *The Globe and Mail* (2 April 2002) A15.

⁴⁴ R.S.C. 1985, c. C-36.

⁴⁵ Krista Foss “Catholic Order Applies for Bankruptcy Protection” *The Globe and Mail* (10 April 2002) A5.