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Are We Really Sorry? Some Reflections on Canadian Indigenous Policies in the Early Twenty-First Century

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Introduction

On June 11, 2008, the prime minister of Canada rose in the House of Commons and made history with three words: “We are sorry.” His statement, and others that day by the leaders of the other parties in Parliament, and the responses by the leaders of five national Aboriginal organizations, may have been a historic watershed in Canada’s Aboriginal history, marking a new beginning in the relationship between Aboriginal people and the federal government in Canada. The apology was for the many harms wrought on stolen children by the residential schools since the nineteenth century. Quite apart from the apology, which was a promise fulfilled, however, there was nothing new attached to the words, “We are sorry.” As many Aboriginal people said that day, the real work to heal their relationship with Canada was only about to begin, and whether it would change thereafter remained a question mark in the early twenty-first century. In this century there are indeed plenty of questions but few answers.

Policy is multi-dimensional and multi-faceted, noted thirty-nine years ago by J. W. Cell, “as being something rather less fixed, something rather more historical.” Cell also noted that at any moment in time there is “not so much policy as policy formation, an unsettled and changing set of responses by government to the continual interaction among men [and women], forces, ideas, and institutions.”¹ Canada’s Aboriginal policy, or rather policies, have been regional (or local) and are the result of indigenous resistance to European and Canadian empires. This is still true in 2009. So when I (David T. McNab) received a call from my friend Olive Dickason in April 2007 to write the fourth edition of *Canada’s First Nations*, I wondered if anything had changed. Would Canada’s Aboriginal policies, through a long process of denial, which have created institutional racism and corresponding resistance movements that have culminated in violence and death, be changed in the period since 2002? Here are some of our reflections.

An April 2008 *Globe and Mail* article headlined “Natives threaten Olympic disruptions,” quoted the Assembly of First Nations national chief, Phil Fontaine, as stating that “the situation here is compelling enough to convince Canadians

that while it is okay and right to express outrage with the Chinese government's position against Tibet and the Tibetans, they should be just as outraged, if not more so, about our situation here."² Most Canadians reading that headline would be shocked that we would be compared with the human rights abuses of China against Tibet. Such is still the broad lack of understanding of the history of Aboriginal issues in Canada. What are the historical legacies of the relations between Canada's founding peoples and later settlers for Canadians in 2009, and why are these policy issues still with us? We need a stock-taking—on the most significant of these issues, perhaps a new ledger drawn by the experiences and actions of indigenous people—of our needs in the twenty-first century.

A regional and local perspective has long been the strength of First Nations and their survival, rather than the outmoded, nineteenth-century nation-building approach of Canada's politicians. As a place on Turtle Island [the Earth], Canada fundamentally has been a product of a treaty process; it is to that process we are returning. Today the primary shapers of Canada's indigenous history are indigenous persons themselves. They have shaped the new ledger for Canada on their own terms. Nowhere is this truer than in international and sovereignty issues.

International and Sovereignty Issues

The current federal government recently denied indigenous rights in the international sphere. It was not always so. Domestically, such rights are part and parcel of Canada's *Constitution Act (1982)*, in section 35(1), which states that "the existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and reaffirmed."³ Aboriginal peoples are "the Indian, Inuit and Métis peoples of Canada" (s. 35[2]). At the same time, the *Indian Act* (since 1876, as revised) is still on the books, and this federal legislation is racist and colonial, and takes away the rights of those Aboriginal Canadian citizens for whom the nation-state recognizes the same rights under its Constitution. The legislative consequences of all of this history, which Amerindians must still live with and work through today,⁴ prevail in spite of the many initiatives taken by Canada's Aboriginal peoples to change the policies and the processes of the federal government as well as to resist the implementation of current national policies on a day-to-day basis.

The fundamental issue is one of indigenous sovereignty. The same is true on the international stage. On September 13, 2007, the United Nations General Assembly adopted the Declaration on the Rights of Indigenous Peoples by an overwhelming majority: 143 votes in favour, 4 votes against (Canada, Australia, New Zealand, and the United States), and 11 abstentions. Les Malezer, chair of the International Indigenous Peoples' Caucus, welcomed the adoption of the declaration in a statement to the General Assembly:

The Declaration does not represent solely the viewpoint of the United Nations, nor does it represent solely the viewpoint of the Indigenous Peoples. It is a Declaration which combines our views and interests and which set the framework for the future. It is a tool for peace and justice, based upon mutual recognition and mutual respect.

The declaration “calls on nations with Aboriginal peoples to give them more control over their lands and resources” but “is not binding.” Governments are urged, however, “to introduce laws to underpin its provisions.” In June 2007, it was reported that a “Canadian delegate has told the council it will have ‘no legal effect in his country’ and that ‘several of the articles would violate the national constitution or even prevent the country’s armed forces from taking measures necessary for its defence.’” However, “Indigenous coalition representatives say they believe the big power opposition was largely driven by concern over the potential loss of state control over how natural resources like oil, gas, and timber, are exploited.”⁵ Canada’s negative vote on the declaration, it should be noted, came after previous Canadian governments had been instrumental at the UN in initiating and drafting the document.

On April 8, 2008, as reported in the American *Indian Country Today*—but not in any Canadian newspapers or in electronic media—at the urging of Canada’s First Nations, the House of Commons “passed a resolution to endorse the declaration as adopted by the UN General Assembly and called on the government of Canada to ‘fully implement the standards contained therein.’” Mary Simon, currently president of the Inuit Tapiriit Kanatami, stated that “the UN Declaration on the Rights of Indigenous Peoples provides a road map for the reconciliation of indigenous and non-indigenous peoples in Canada and around the world.” The House voted 148–113, with the Liberals, NDP, and Bloc Québécois voting in favour as a direct response to requests made to them by national Aboriginal organizations. The federal Conservatives continued with their opposition to this declaration; “This government’s latest arguments against the declaration show just how ridiculous their position has become,” said Chief Wilton Littlechild, international chief for Treaty 6, in a release. “The UN declaration explicitly states that treaties and other agreements with indigenous peoples are to be honoured and respected.” Tellingly, this *Indian Country Today* report states that “The Harper government’s arguments are belied by briefing notes from legal advisers to the departments of Foreign Affairs, Indian Affairs and National Defence to government ministers,” and even the federal government’s “legal advisers had recommended that Canada endorse the UN declaration and support its adoption.”⁶ This human rights issue is now joined in Canada both at the international and domestic levels.

What accounts for these differences in Canadian policies and the reality of indigenous existence in Canada? The answer lies in the issue of sovereignty and the disparate histories of indigenous and non-indigenous people in Canada. The primary objective of the former is spiritual—one of peace and protection of the land (Mother Earth) and the waters of Turtle Island. This is a sacred trust. The continuity and integrity of their lands are important to the survival of the First Nations as an indigenous people. Generations of First Nation people have used the land and have shared in its bounty. Moreover, they will continue to use this land and teach their children about the Creator and the land. Thus, this relationship between the people and the natural world is all-important if they are

to survive culturally. It is both simple and profound.⁷ Today, the larger business of the Constitution and the treaty-making process, through various land rights policies, still remains incomplete and unfulfilled. It is currently being defined on an issue-by-issue basis by the courts.

Canada's Aboriginal policies, through a long process of denial, have created institutional racism and corresponding resistance movements that have culminated in violence and death. The events of the Temagami blockades (1988–90) in northern Ontario; of the summer of 1990 centred on Oka, Quebec; of Ipperwash (1995) and Caledonia (2006) in southern Ontario; of Gustafsen Lake in British Columbia (1995), and Burnt Church in New Brunswick (1999–2001) will not be erased from history or memory. Nor will the ongoing problems of the Innu of Labrador, the Deh Cho of the Northwest Territories, the Lubicon Cree of northern Alberta, and of the many other outstanding claims be solved by inaction and denial. The initiative for change in recent Aboriginal history has almost always come from the Aboriginal people. At the same time, federal and provincial government policies have often been characterized by reaction, crisis management, and denial.

In the early twenty-first century the prominent issues arising for Canada's Aboriginal policies remain outstanding and unresolved. Ultimately, these issues are "all about the land," as was recently observed by Alex Neve, secretary-general for Amnesty International Canada, and Murray Klippenstein, counsel for the George family during the Ipperwash Inquiry. They stated: "Return of these lands [Ipperwash] now would offer powerful redress to Dudley George's family, as his death came about due to his efforts to assert the rights of his people. What better way to evidence the dawn of a new approach than to ensure redress of the land rights violations at the heart of the Ipperwash tragedy."⁸ Sovereignty and land rights cannot be separated. They are central to indigenous rights in Canada and have been denied for far too long. In this sense, Canada's Aboriginal policies have been a wholesale failure in the face of the resistance to them by Aboriginal citizens. And these misconceived policies, made with little or no consultation, have led directly to the denial by the federal government of Aboriginal rights in Canada and on the international stage.

Of note, the federal government failed to replace the *Indian Act* by 2009. Instead, it proposed a glorified form of municipal-style governance created by federal legislation and/or policy. The clear alternative lies in the recognition and development of the inherent right of Aboriginal governance made by and for indigenous people in Canada. This alternative has been proposed to be included in Canada's *Constitution Act (1982)* as a new part of section 35 since the 1980s. If such a change were made, the *Indian Act* would become redundant. It has been a failure of political will by non-indigenous federal and provincial governments to carry out this necessary constitutional change.

Governance and Land Rights Issues: The Proposed *First Nations Governance Act* of 2002 and the Legacies of the *Indian Act*

Early in the twenty-first century the federal government attempted, but failed, to do away with the *Indian Act*. The *First Nations Governance Act* (FNGA), first proposed in January 2002 by the Department of Indian and Northern Affairs, was to amend the original *Indian Act* of 1876. Introduced by former Liberal Indian Affairs Minister Robert Nault as Bill C-7, it created much discussion on the issue of Aboriginal governance. The proposed legislation, which died when then-Prime Minister Paul Martin ended the parliamentary session in 2004, set forth a wave of debate between the federal government and many Aboriginal groups across Canada. Many First Nations leaders opposed the legislation because it did not recognize the inherent right of self-government and also was seen as an attack on existing Aboriginal and treaty rights. The federal government claimed that its goals of self-government would increase the accountability of both First Nations and their governments. However, the stated federal goals of improving issues such as education, poverty, health care, housing, and, more specifically, how these issues were to be addressed under this proposed act, revealed obvious disagreements about the means to achieve the ends.

The main principles of the act included the development of a system by First Nations to choose their own leaders and develop clear rules on financial spending and accountability. First Nations wished to have their form of governance based on their customs, laws, and cultures as well as on their Aboriginal and treaty rights. The major opposition to this legislation concerned the process under which it would come into existence, and great concern was expressed over the lack of prior consultation. The opposition over the proposed FNGA proved that a tremendous amount of mistrust and discontent among many Aboriginal groups still is directed towards the federal government, heightened considerably by the plethora of outstanding residential school issues and the previous reluctance to apologize to First Nations for them. For example, it has been more than twelve years since the last residential school closed and only in 2008 did the prime minister provide a formal apology.

The *Indian Act* can no longer accommodate the existing governance structures in that it fails to address some major issues, such as the ability of First Nations councils to manage their own financial affairs without appropriate funding;⁹ the separation of issues concerning these councils and that of administration in terms of economic development and sustainability; and the ability of councils to delegate authority.¹⁰ (These issues have been dealt with in regard to the Inuit in Canada's North, where development corporations to handle the funds from claims settlements have been established as separate from their democratic governance structures. Some treaty bands, e.g., the Lac La Ronge Band in northern Saskatch-

ewan, also have established ambitious and successful development agencies.) In 2002 Nault stated that the *First Nations Governance Act*

would enable First Nations people to create community governance systems designed to reflect their needs. The proposed Act would give communities the modern tools they need to operate effective, responsible and accountable governance structures, the solid basis needed for future development.

In addition, it would also “be a part of the Government’s overall agenda to improve the lives of Aboriginal people by providing tools for greater self-sufficiency and economic development.”¹¹ The latter eventually became part of the Kelowna Accord of 2005, ostensibly an attempt to give First Nations some equity in Canada, but as discussed below, this agreement fell by the wayside with the election of a minority Conservative government in early 2006.

The proposed FNGA represented how First Nations are classified in Canada in terms of differentiated citizenship under the *Indian Act*, and it created an ongoing divisive problem for Nault. Throughout the spring, summer, and fall of 2003, First Nations across Canada participated in community meetings, information sessions, and discussion groups; they also provided written proposals in their submissions to the minister. Over ten thousand First Nations people participated in the process and discussed their views on the matter of how Bill C-7 could be implemented to improve the lives of Aboriginal peoples across Canada.¹² As well, a joint Ministerial Advisory Committee, which included First Nations representatives and government officials, was formed to provide expert advice and guidance on the legislative options, which was presented in its report to Nault in March of 2004.¹³

The federal government’s initiative sought to bring together what it regarded as all of the indigenous leaders from across Canada in an effort to consult them on the proposed legislation. This could not be achieved; for one thing, it presupposed who the leaders were. For some, this effort at consultation was a replay of the White Paper of 1969, which ironically brought some change, including an increased politicization and the enhanced organizational power of Canada’s Aboriginal peoples and, indirectly, the Charter of Rights and Freedoms and the entrenchment of Aboriginal rights in the Constitution.

The opposition to the proposed FNGA rose steadily, and included many non-Aboriginal groups. As the former chief of the Assembly of First Nations (AFN), Matthew Coon Come, condemned the proposed legislation: “This will leave us a legacy of shame, a legacy of despair and a legacy of colonialism when we are looking for a legacy of hope for our future generations.”¹⁴ Joining Coon Come were Amnesty International, and the United, Anglican, and Catholic churches of Canada.¹⁵ The increasing numbers of opposition groups posed problems for Nault. He did not have public opinion on his side, causing him to push the proposed legislation back in terms of the government’s agenda. It also illustrated the ongoing lack of communication between the First Nations and the federal government.

Opposition to the FNGA focused on the vague nature of the proposed legislation and, especially, on the fact that it failed to address the issue of an inherent right to self-government, which had not been included in section 35 of the *Constitution Act (1982)*. Under Bill C-7, the government did not explicitly specify who actually possesses this right, such as “certain bands under the Indian Act” or “signatories to treaty rights.”¹⁶ In the end, Bill C-7 raised issues that were not inherent; it didn’t touch on constitutional rights and related only to federal legislation and policy matters. Its aim was federal housekeeping, not a new deal for Canada’s Amerindians. Through a lack of consultation and by not providing for a process to recognize the inherent right of Aboriginal governance, Nault was unsuccessful. To this day, however, the federal government is effectively implementing this failed bill in a piecemeal fashion as if it were federal legislation.¹⁷

The debate over the inherent right of self-government is complicated, dating back much earlier than the *Constitution Act (1982)*, which does not affirm this inherent right. One legal observer has argued that “recognition of the inherent right is based on the view that the Aboriginal peoples of Canada have the right to govern themselves in relation to matters that are internal to their communities, integral to their unique cultures, identities, traditions, languages and institutions and with respect to their special relationship to their land and their resources.”¹⁸ Many of these First Nations have different methods of governance and distinct values as to how to govern themselves. To use a “one-size-fits-all” solution will simply not work.¹⁹

Many First Nations leaders, such as former Six Nations Chief Roberta Jamieson, argued that Bill C-7 was unconstitutional. Jamieson spelled it out succinctly: “I think the process is flawed, the bill is flawed and the arrogance and the colonial approach that continues to be taken by this government and now through the committee to ram this through, in spite of our opposition, is really just deteriorating the relationship between our people and the government.”²⁰ The federal government responded lamely to Jamieson’s attack, stating that she had simply refused to engage in the process of possibly amending and improving the piece of legislation. However, Jamieson unequivocally rejected the proposed legislation: “We take that position on a legal basis, constitutional basis and on a moral basis. We believe it cannot be amended and we adamantly reject it. We have been very clear that we oppose it at this stage and if it is passed, we will oppose it then.”²¹ Many Aboriginal leaders became increasingly resistant to the possible ramifications of the act on their own communities.

The proposed implementation of Bill C-7 also highlighted the variety of distinctions of indigenous and Canadian citizenships and the relationship between Aboriginal groups and leaders and the federal government. Aside from the 21 First Nations currently operating under four self-government agreements, the 330 remaining First Nations under the *Indian Act* at present choose their leadership outside the act in a manner according to the different customs of their respective communities.²² This applies to the 196 that were never moved into the *Indian Act*

system, but also to more than 100 First Nations that had been under the *Indian Act* but reverted by request to a customary governance model.²³ These statistics suggest that a policy issue such as self-governance cannot be simply implemented broadly on so many different communities. Legislation needs to focus on the distinctive needs of each Aboriginal community, as has been the case with comprehensive agreements (e.g., *Nisga'a Final Agreement Act*, *Yukon First Nations Land Claims Settlement Act*, *Nunavut Land Claims Agreement Act*), and not simply on a broad federal-wide initiative that fails to address such immediate issues as health care, education, poverty, and housing.²⁴ An accord, however, was reached at Kelowna with the federal government in the fall of 2005 to provide over five billion dollars for First Nations to meet their specific needs. However, the Conservative government failed to live up to that agreement after gaining power in the federal election of January 2006.²⁵

Former Prime Minister Paul Martin argued that the fundamentals of Bill C-7 were necessary for good government, financial administration, and electoral codes.²⁶ However, Nault, despite the mounting opposition from many groups and First Nations leaders, was rather confused by the opposition to Bill C-7: “What is it exactly that people would like to consult and review before we move on to put in place more modern principles of governance and enable First Nations so they can have more responsive institutions for their people? I’m confident that this debate will conclude with improvements to First Nations governance. Under the *Indian Act* there is none and we all know that there is a need to have these modern tools.”²⁷ Nevertheless, although there is no question that the *Indian Act* needs to be revised or, better yet, eliminated, it will take many years to find a proper and just solution that meets the diverse needs of different First Nations for Aboriginal governance.²⁸

This innovation would come from Aboriginal people and their communities. By 2009, various models of Aboriginal governance had taken shape. Recently established self-governance agreements with the Kwanlin Dün First Nation in Yukon, First Nations in Manitoba, and the Anishinabek Nation in Ontario provide a basis for new government-to-government relationships based on partnership and respect.²⁹ Another approach—public government as opposed to ethnic government—has been established in Nunavut, where Inuit make up 85 percent of the population and the territorial government is responsible to and for all citizens of Nunavut, including the non-Inuit (Qallunaat or “white people”). In effect, of course, the government is controlled by the majority Aboriginal population. An agreement-in-principle has been signed for a similar public (but chiefly Inuit) government, the Nunavik Regional Government, in northern Quebec. Once this Nunavik government is established in the next few years, it remains to be seen whether such a regional governance structure within a province might serve as a model for types of self-government in the northern reaches of some other provinces.³⁰

The issues that self-government agreements address include land, funding, economic development, and wildlife, forestry, and heritage resource management. Many outstanding, diverse issues are of importance to Aboriginal communities. Stumbling blocks can involve such issues as unique cultures, identities, traditions, languages, and the institutions concerned with the special relationship Aboriginal communities have towards their land and resources. In a number of instances over the past two decades, from coastal British Columbia to the northern tip of Labrador, and from northern Yukon through Nunavut, some of these issues have been resolved with the establishment of national parks and national park reserves within traditional homelands. These are co-managed by the local Aboriginal community and Parks Canada. Besides providing some employment opportunities for Aboriginal communities, such areas can allow for hunting and harvesting exclusive to the indigenous people while maintaining their status as protected from resource exploitation. Once again, however, those groups that never were party to a historic treaty and that achieve comprehensive land claim agreements, as many in the territorial North have, are in a better position in this regard than the treaty Indians to the south, whose specific claims relate to the disposition of the parcels of land they received through the treaty process.

The goals and aspirations of self-government for many First Nations citizens may depend on their geographic proximity to large urban centres in southern Canada. For example, Yukon and the Northwest Territories have vastly different resources from those of Ontario, and the issues surrounding self-government may vary. The federal government recognizes the uniqueness of the North and that public government should play a prominent role in order to address the distinctive features of the region, where, demographically, many communities are of mixed ethnicity and others have a majority of Aboriginal Canadians.³¹

As an example, the significance of a negotiated settlement will allow for the Kwanlin Dün First Nation to enact its own laws to address the use of control, management, and protection of the land, which includes the protection of fish, wildlife, and habitat, administration of justice, and taxation. In terms of its citizens, First Nations will have legal authority concerning many social issues, such as marriage, programs and services related to both language and culture, and social and welfare services. The purpose of these initiatives is to ensure a better quality of life for all of the citizens of the Kwanlin Dün First Nation in order to address their specific needs and increase the self-reliance of this community within and near Whitehorse, Yukon.³²

On February 16, 2007, the then-minister of Indian Affairs, Jim Prentice, announced that the Anishinabek Nation and its grand council chief had signed an agreement-in-principle to establish a framework for the Anishinabek Nation, represented in negotiations by the Union of Ontario Indians, in assuming greater control over its own institutions of government.³³ Chief John Beaucage stated that the “purpose of the [agreement-in-principle] is to work toward eliminating the *Indian Act* and in reasserting jurisdiction and re-establishing our own forms of

government.”³⁴ The implementation of self-government, according to Beaucage, would provide practical and effective ways to improve the overall living conditions of the people of the more than forty First Nations in the Lake Huron, Georgian Bay, and Lake Superior region represented by the Anishinabek Nation.³⁵ For the federal government, these types of agreements are viewed as a way of replacing the outdated provisions of the *Indian Act* with a modern legislative framework for First Nations governance. The main purpose of this agreement is to strengthen the internal governance and solidify the political and financial accountability of First Nations governments to their citizens, while operating within Canada’s constitutional framework.³⁶

Thus, there have been some steps towards First Nations achieving self-government in the early twenty-first century, but many conflicts remain with respect to Canada’s Constitution. In November 2007, an Ontario court ruled against the attempt of the Mississaugas of Scugog Island First Nation to enact a law prohibiting strikes at a popular casino near Port Perry, Ontario, operated by this First Nation. The ruling stated that they did not have the constitutional right to enact their own labour code on reserve lands. The Mississaugas had intended to use their treaty rights to regulate the work activities and control access to their land. However, in order for that principle to be accepted, they would have had to show that they had a constitutionally protected right related to their traditions. They did not do so.³⁷ For many years, at least since 1965 when the Walpole Island (Bkejwanong) First Nation—fifty kilometres northeast of Windsor at the mouth of the St. Clair River—kicked out its Indian agent, many indigenous communities have practiced their own form of governance.³⁸ It is imperative that such practical models of indigenous governance continue to be developed by First Nations in the twenty-first century.³⁹

The Ipperwash Inquiry and Final Report of 2007

The Ipperwash Inquiry was established by Ontario on November 12, 2003, under the *Public Inquiries Act*. Its mandate was to inquire and report on events surrounding the death of Dudley George, who was shot, and later died, in September 1995 during a First Nation protest at Ipperwash Provincial Park. For eight years, both the federal and provincial governments failed to call for any inquiry into the death of George or the events at Ipperwash. After the provincial Liberals were elected, this was one of the first things the new government acted on. The inquiry was asked to make recommendations that would prevent violence in similar circumstances in the future. Justice Sidney B. Linden was appointed commissioner. The commission’s final, four-volume report, covering over 1,500 pages, was made public on May 31, 2007. The provincial government immediately accepted all of the report’s recommendations and has proceeded to implement them.⁴⁰

Ipperwash is an example of the repeated failures of the provincial and federal governments to resolve long-standing land issues with many First Nations across

Canada. These events, such as those that occurred at Temagami, Oka, Ipperwash, and Caledonia, could have been prevented had both levels of government been active in seeking solutions to unresolved land disputes, which have led to much resistance on the part of frustrated Aboriginal groups. The case of the Stoney Point Reserve in Ontario has evolved like any other land rights issue in Canada—the federal government takes literally decades to resolve these issues. The Stoney Point Reserve was taken by the federal government in 1942 and still today has not been returned on the basis of the original agreement. These issues are reflected in the final report of the Ipperwash Inquiry.

The final report revealed the disconnections and miscommunications between the Ontario Provincial Police (OPP) and the Aboriginal protestors who had been occupying the provincial park. However, there had been many instances of inappropriate and culturally insensitive remarks made by OPP officers towards Aboriginal people. These were revealed during the inquiry in tape-recorded conversations and radio transmissions from September 5–6, 1995. On numerous occasions racist remarks had been made by the OPP, and the final report stated that the conduct among members of the police contributed to the lack of a timely, peaceful resolution to the occupation of the park by the protestors. There is little doubt that the police neither respected nor understood the protestors' objective in occupying the park.⁴¹

The final report stated that on September 6, Premier Mike Harris had sought an injunction to remove the protestors from the park within twenty-four hours. This approach was far more aggressive and drastic than that suggested by the attorney general, who had wanted a slow and cautious approach in resolving the matter.⁴² Harris's actions came under question during the inquiry. Commissioner Linden wrote unequivocally: "To maintain police independence, the government cannot direct when and how to enforce the law. Neither the Premier, the responsible Minister, nor anyone in government should attempt to specify a time period, such as twenty-four hours, for the occupiers to be removed from the Park."⁴³ The sudden actions of the OPP and their tactical units in storming the park led to a confrontation between the police and the First Nations occupiers. There appeared to be miscommunication on both sides. During the confrontation, in which no firearms had been found on any of the occupiers of the park, Dudley George was shot three times by one of the officers, who erroneously claimed that Dudley had a rifle.⁴⁴

No evidence from the inquiry suggested that Dudley George had a rifle, or in fact that any of the occupiers of the park had any firearms whatsoever. Many of the officers who testified at the inquiry corroborated this evidence. The inquiry also revealed that the police and tactical units were not trained to deal with Aboriginal protests. They had treated the protestors as if they were a soccer crowd or another form of unruly protest, such as wildcat strikers. From the beginning of the occupation, the provincial authorities, from the premier down to the OPP, appeared to be rather insensitive and unaccustomed to Aboriginal issues, in spite of the

lessons that should have been learned from the events of the Temagami blockades and in northern Ontario in support of Oka several years earlier. The final report found that the death of Dudley George and the confrontation between the OPP and the occupiers of the park could have been prevented if the government and OPP had taken a more cautious and understanding approach towards resolving the matter peacefully. The Ipperwash report included numerous recommendations regarding federal or provincial policy issues and policing matters. Specifically, it immediately led to the creation of a stand-alone provincial Ministry of Aboriginal Affairs.

By the fall of 2007, the Ministry of Aboriginal Affairs and its new minister, Michael Bryant, had accepted and undertaken to implement the recommendations of the Ipperwash Inquiry to resolve other long-standing land rights disputes. However, both the provincial and federal governments will need to implement these recommendations to bring about a policy of justice and fairness for First Nations.

On December 21, 2007, Bryant announced that Ipperwash Provincial Park would be returned to the Chippewas of Kettle and Stoney Point First Nation: “We are sending a clear signal that the McGuinty government is acting on the Premier’s ambitious agenda on Aboriginal affairs.”⁴⁵ In the interim, the land and the park are to be co-managed by the community, government, and the First Nation, after which it would be transferred to the First Nation permanently. Sam George, Dudley’s brother, applauded the decision by Bryant to return the land: “It shows it’s like a game of hockey. We can all play on the same forward line together.”⁴⁶ This initial step by the Ontario government is important in addressing the key land rights issues that have plagued both the provincial and federal governments for many years. The events at Ipperwash would be echoed at Caledonia with the Six Nations resistance on their land issues.⁴⁷

Caledonia and Specific Claims Policies

Despite having a specific claims policy since 1973 and first establishing an Office of Native Claims in 1974 (since dissolved), the federal government has resolved relatively few such claims relating to its failure to administer reserves and treaties properly. Canada’s commitment to reform the specific claims process has been long overdue; issues such as Oka and Caledonia arise because of the inaction on behalf of the federal government in the overall process it has been using in settling specific claims across Canada. It has been estimated that more than a thousand unresolved claims are on the books today. A more efficient and fair process will ensure benefits to all Canadians. The events at Caledonia, near Hamilton and Brantford in southern Ontario, continue at a tremendous cost to the Six Nations Reserve, the residents of Caledonia, and the Ontario government, which has borne the financial burden in resolving this issue. An accelerated and more efficient process would go a long way towards bringing some resolution to historic injustices between the federal government and First Nations.⁴⁸

After a quarter-century of non-negotiations, the unresolved issue over land use in the small town of Caledonia came to the forefront when, in the fall of 2005, Henco Industries began development of the Douglas Creek Estates subdivision on land called the Plank Road (which had been leased, but not sold, by the Six Nations in the 1830s) adjacent to the Six Nations Reserve. The land has been in dispute since the mid-nineteenth century. The situation deteriorated during the late winter and spring of 2006 into clashes between Six Nations protestors who had occupied the area and many of the residents of Caledonia, who resented the occupation of the land. As the situation in Caledonia dragged on and became volatile, it signified, as had Ipperwash, the failure of the federal and provincial governments to initiate a more efficient process in settling land rights disputes.

In the case of Caledonia, a small town on the Grand (formerly the Bear) River, a group of Six Nations protestors had occupied the unfinished Douglas Creek Estates housing development on February 28, 2006. The protestors from the Six Nations claimed that the land, which was to be six miles on each side of the river, and including the river, from its mouth on Lake Erie to its source, belonged to them under the Haldimand Grant of 1784. The federal government believed that these specific lands had been surrendered in 1841 in order for a highway to be built.⁴⁹

The Six Nations of the Grand River is a community with which Canada and Ontario are negotiating in respect to a number of issues, including those arising out of the Caledonia situation. Between 1976 and 1994, the Six Nations had filed twenty-nine claims with Canada, only one of which has been settled. In 1994, the Six Nations brought a claim in court against Canada and Ontario for an accounting of all transactions involving Six Nations lands and the proceeds of their disposition. Of those claims, fourteen currently are in litigation against Canada.⁵⁰ As of 2006, the Douglas Creek Estates had been one of those claims in the process of litigation. However, the chief of the Six Nations, David General, concerned about the possible ramifications of the construction on the land, had warned Henco Industries about going ahead with the development.⁵¹

The events in Caledonia became national news when the group of Six Nations protestors moved onto the construction site, erecting tents, a teepee, and a wooden building. On March 10, Henco Industries obtained an injunction ordering the protestors off the site, but without result.⁵² Another injunction followed on March 28—the protestors would be facing criminal as well as civil contempt charges if they did not agree to leave the area. This only seemed to infuriate and further empower the protestors, and the situation escalated into clashes between non-Aboriginal residents of Caledonia and the Six Nations. On April 20, approximately one hundred police were called in, and later that day, they conducted a raid on the protestors occupying the housing project, arresting sixteen people.⁵³

The divide between the communities was becoming increasingly hostile, and on April 25 the issue of racism became apparent when Haldimand County Mayor Marie Trainer told the CBC that the Caledonia residents “have to go to work

to support their families and if they don't go to work, they don't get paid." She further stated: "They don't have money coming in automatically every month, they've got to work and the natives have got to realize that."⁵⁴ Following these comments, the county council voted to replace her with the deputy mayor. Racism, both overt and implicit, had long been part of land rights issues.⁵⁵

By April of 2006, the Ontario government was secretly negotiating with Henco Industries to purchase the disputed land, and eventually purchased the Douglas Creek Estates property for \$21.1 million dollars; on March 29, 2007 the federal government contributed \$15.8 million towards Ontario's purchase of the property.⁵⁶ This purchase was an effort to set the stage for negotiating long-term solutions in regard to the various specific claims the Haudenosaunee/Six Nations had filed over the previous three decades, beginning in 1976. The negotiations had been ongoing between the Six Nations and the federal government, with little input from Ontario and the local municipalities, when the issues were first formally raised with Ontario in 1981.⁵⁷

In June 2007, Prime Minister Stephen Harper recognized that the negotiation and settlement process for specific claims across the country had been ineffective and slow by announcing that the federal government would be spending millions of dollars to expedite the process by establishing an independent tribunal.⁵⁸ The process of settling specific claims has taken an average of 13 years. The federal government planned to streamline the settlement process by increasing funding to approximately \$250 million a year.⁵⁹ At the current pace of negotiations, the AFN has said that it would take about 130 years to resolve all of the outstanding claims.

Despite the federal announcement, many First Nations groups decided to proceed with the planned National Day of Action on June 29, 2007. The First Nations groups came together and protested the inaction of the federal government pertaining to racism, poverty, and outstanding unresolved land claims on that day. The announcement made on behalf of the federal government was also widely believed to be an effort to prevent any large-scale disruptions during the National Day of Action, which included the blocking of railway lines and the shutdown of major highways.⁶⁰ Indigenous people once again had to rely on their own agency.⁶¹

Harper's plan to address these ongoing grievances, according to the federal Department of Indian Affairs, would ensure impartiality and fairness, greater transparency, faster processing, and better access to mediation. There are four key elements to this plan:

1. The creation of an independent tribunal to bring greater fairness to the process;
2. More transparent arrangements for financial compensation through dedicated funding for settlements;
3. Practical measures to remove bottlenecks and ensure faster processing of claims;

4. Focusing the work of the current Indian Claims Commission to make greater use of its services in dispute resolutions once the new tribunal is in place.

This latter point would aim at easing the existing problems and the backlog of claims in the future.⁶² However, as of the summer of 2009, these proposed changes have not yet entirely been put into place.⁶³

On November 27, 2007, the Conservative minister of Indian Affairs, Chuck Strahl, introduced the *Specific Claims Tribunal Act* in the House of Commons, which would create an independent tribunal to help resolve the specific claims of First Nations. The introduction of the legislation was greeted warmly by AFN leader Phil Fontaine, who praised the introduction of an independent tribunal that will ensure greater fairness in the way specific claims are handled. While negotiation will remain the first priority in settling specific land claims, the purpose of the tribunal would be to make binding decisions in cases where negotiations over a three-year period have been rejected by one party or have led nowhere. The independent tribunal would be made up of six sitting superior court judges.⁶⁴

While the Caledonia land dispute remains primarily a federal matter, some of the Six Nations claims are against both Canada and Ontario. Negotiation remains the best option for a relatively peaceful end to the ongoing situation in Caledonia. The provincial government had learned from the deadly confrontation of Ipperwash and went back to the pre-Mike Harris policies, during the Temagami and Oka blockades of 1988–90, to find a more reasonable response to peaceful indigenous actions and protests.⁶⁵ At the end of May 2007, the federal government offered \$125 million to the Haudenosaunee/Six Nations to settle four of the twenty-eight outstanding claims. Negotiations between the two parties continue.⁶⁶ Following the Ontario provincial election in October of 2007, which returned a majority Liberal government, Premier Dalton McGuinty announced that former Attorney General Michael Bryant had been named the new Minister of Aboriginal Affairs. Then, on November 26, Bryant visited the occupation site and was met with angry protestors from both sides, who were still frustrated over the slow pace of the negotiations between the Six Nations and the federal government.⁶⁷

In December of 2007, progress was reported on settling one of the Six Nations claims with an offer of twenty-six million dollars to compensate for the loss of 970 hectares of land flooded many years earlier for the Welland Canal project. Bryant told the Canadian Press he was a little more hopeful that a settlement could be reached: “The Six Nations have deemed this latest offer to be worth considering and that might give the talks some momentum.”⁶⁸

At the federal level, Harper shuffled his cabinet in August 2007, replacing the outgoing minister, Jim Prentice, with Chuck Strahl as the new Minister of Indian Affairs. Whether this and other changes at the federal level will have a significant impact on the specific claims process remains to be seen. Many First Nations groups are becoming increasingly frustrated by the current process, especially in the province of British Columbia, which has approximately half of the outstand-

ing land claims—both specific and comprehensive—in Canada. The new specific claims legislation was only passed early in 2009. As a result, the AFN held another peaceful National Day of Action on May 29, 2008; more actions of peace were surely to follow.⁶⁹ We can expect these will escalate, especially in Ontario, where various Aboriginal leaders were jailed in the fall of 2007 (and released by the courts in the spring of 2008) as a result of protests against the province's antiquated mining legislation, and against mining companies pursuing exploration on Crown (read "Aboriginal") lands in eastern and northern Ontario. The province only introduced changes to this legislation in the spring of 2009.⁷⁰

The Kelowna Accord of 2005 and Beyond

The Kelowna Accord was basically a modern treaty. On November 25, 2005, Prime Minister Paul Martin announced in Kelowna, British Columbia, that an accord (effectively what was regarded by some Aboriginal people as a national treaty) had been reached whereby more than five billion dollars over a five-year period would be provided by the federal government in an effort to improve the daily lives of Aboriginal Canadians in terms of housing, health care, education, and economic opportunities.

The Kelowna Accord was seen by some to be a belated attempt by the federal government to begin to meet at least some of the social equity issues raised by the recommendations of Royal Commission on Aboriginal Peoples in 1996. The historic occasion was concluded by federal and provincial first ministers and Aboriginal leaders, who had set the course for a plan that would improve the lives of all the Aboriginal people and their communities across Canada. Prime Minister Martin stated that "our plan is built on a foundation of respect, accountability and shared responsibility."⁷¹ The accord had five-year targets within a ten-year plan to ensure that actions would remain focused and accountable. The first ministers and Aboriginal leaders both agreed that broad indicators would be used to assess progress, while more specific measures and targets would be developed at regional and sub-regional levels.⁷²

Aboriginal people and communities significantly trail behind other Canadians in many different areas, including health, education, and economic well-being, and the Kelowna Accord aimed to begin to address these inequities. In regard to education, 44% of Aboriginal people aged twenty to twenty-four have less than a high school education; among the rest of Canadians, 19% have not completed high school.⁷³ By 2001, only 23% of Aboriginal people aged eighteen to twenty-nine had completed any of various forms of post-secondary education, compared to 43% in the rest of Canada.⁷⁴ The federal government pledged to address these issues in the Kelowna Accord by increasing the number of Aboriginal students in post-secondary education programs through the provision of bursaries, scholarships, and apprenticeships. The federal government had also pledged a review to identify how the overall gap and disparity in post-secondary education might be closed.

Another issue was improvement in health care. Infant mortality, youth suicide, childhood obesity, and diabetes all are approximately 20% higher for Aboriginals than for the rest of the population. The government pledged to double the number of health professionals serving Aboriginal communities in ten years from the present level of 150 physicians and 1,200 nurses.⁷⁵ The goal of this initiative was to match the statistics for other Canadians in the course of a five- to ten-year period. Phil Fontaine stated that “all of the targets we’ve set are achievable. We’re driving this process and we’re forcing government to respond to our plan.”⁷⁶

The main obstacle to the Kelowna Accord came when Paul Martin’s minority government fell and the ensuing federal election of January 23, 2006, brought Stephen Harper’s Conservative Party to power with another minority government. Martin had repeatedly stated during the election campaign that the Kelowna Accord would never be brought before the House of Commons with a Conservative government led by Harper. Unfortunately for Aboriginal people, he was right and another opportunity was missed.

Many Aboriginal leaders expressed their concerns over the newly elected Conservative government and whether it would honour the Accord. The Conservatives did not make it an election priority, and their first budget did not indicate a commitment to the agreement.⁷⁷ Instead, the Harper government offered only \$150 million in 2006 and \$300 million in 2007 to improve education programs, provide clean water, upgrade mostly off-reserve housing, and close the socio-economic gap between Aboriginal people and the rest of Canada’s population. As Canada’s military budget grew and its overseas involvement in Afghanistan grew in scope, the severe reduction in funding for Aboriginal socio-economic problems drew criticism from many First Nations leaders.⁷⁸ Fontaine stated that the “Kelowna Accord was designed to eradicate poverty in First Nations communities and make Canada a better place. This budget suggests to me that we won’t be able to move ahead on those commitments.”⁷⁹ As of the summer of 2009, he was correct.

The only response from the Conservative government came from then-Indian Affairs Minister Jim Prentice, who questioned the validity of the agreement. He believed that the first ministers had actually not reached a written agreement and questioned whether Quebec had been properly engaged in the political process, noting that its Aboriginal leadership apparently did not take part. In fact, the accord had been endorsed by the prime minister and all of the premiers and it had the approval of the Assembly of First Nations (including Quebec) and its leader, Phil Fontaine. By 2007, the Kelowna Accord and its promises of money and investment in Aboriginal communities across Canada appeared to be dead. Former Liberal Prime Minister Paul Martin had made a sincere effort in investing in Aboriginal development with the proposed Kelowna agreement. Martin shared his disappointment in his autobiography entitled *Hell or High Water: My Life in and out of Politics*:

While Canadians continue to have their hearts and consciences tugged by the plight of people in the Third World abroad, the same is not true of those living in Third World conditions here at home. Somehow, we have reached a point of despair, or at least a sense of futility with the problems that confront First Nations. In our comfort, we would prefer to forget these people, who are our fellow citizens and who have had so much taken away from them to allow us to live our prosperous lives in what we like to think of as the best country in the world. Part of it boils down to apathy. Part of it boils down to a moral blindness. The world may have awakened to the weight of its collective responsibility to those who live in poverty abroad, but if Canadians don't care about their fellow citizens who happen to be of Aboriginal decent, who will?⁸⁰

Then-Prime Minister Paul Martin had tried unsuccessfully at developing a genuine investment in Aboriginal communities. The failure to implement the Kelowna Accord was a clear indication that the federal government was not prepared to offer the financial support needed to improve the many First Nation communities and citizens who continue to live far below the standards of the rest of Canada. The unemployment rate on reserves is about 29% and off-reserve it is 19%, while the national rate is 7%. The median employment income for Aboriginal Canadians is sixteen thousand dollars, while the average for other Canadians is close to twenty-five thousand dollars.⁸¹ The Kelowna Accord was supposed to help close this gap in five years. As of the summer of 2009, the federal government had not extended or announced any plan of financial support to First Nation citizens akin to the Kelowna Accord, either on- or off-reserve.⁸²

Retrospect

One year after the prime minister's apology, what has happened? Canadians always say they are sorry, but the question remains: Are we really sorry? On Monday, May 18, 2009, the AFN put out a press release stating that it would hold a National Day of Reconciliation on June 11, 2009. It is worth quoting this press release at some length:

Last year, the Prime Minister made a moving and heartfelt apology to residential school survivors on behalf of all Canadians," said National Chief Phil Fontaine. "Now is the time to move forward on the next step in our journey, and that is to enter a new era of reconciliation in Canada. We believe Canadians care, and that they believe in fairness and justice. This is an opportunity to renew relations between First Nations and non-Aboriginal communities. Reconciliation belongs to all of us...

June 11 will now be a day to put meaningful action to the many fine words that have been given to us by way of apologies from the residential school era," the National Chief said. "We once again offer our hand to work in partnership with the governments, the Churches, and the people of Canada, to make this land a better place for First Nation people, and all Canadians."

The National Chief is inviting everyone to Ottawa, but is also encouraging communities across the country—First Nations, Aboriginal and Non-Aboriginal—in every reserve, town and city to participate in what he called a "National Day of Reconciliation." To do so would send a strong message to the government about Reconciliation.

The National Day of Reconciliation will begin with a sunrise ceremony at 5:30 a.m. on Victoria Island. Members of the public are welcome to participate or observe. At noon, First Nations leaders will meet with church leaders and politicians for a symbolic handshake on the Portage Bridge, followed by a march of unity to Parliament Hill. At the Hill, children will invite everyone to participate in a Round Dance, a traditional display of friendship and goodwill.

“Our march on June 11 in Ottawa will be symbolic of the journey we must all make together,” the National Chief stated. “We will reach our destination when First Nations live in healthy communities and raise children who can pursue their goals and dreams, and when First Nations share in the riches of this, their traditional homeland.”⁸³

Are we really sorry? Given the indigenous history of Canada, we think not. We still have a very long journey ahead in terms of equity and human rights before a true answer to this question can be revealed.

The early twenty-first century included new challenges for Aboriginal people across Canada, as well as unresolved problems from the past. The federal Conservative government elected in early 2006 wasted no time undoing the efforts of its predecessors by immediately scrapping the Kelowna Accord and by its refusal in 2007, as only one of four nations in the world, to accept the United Nations Declaration of Indigenous Rights. On April 8, 2008, the opposition parties passed a resolution in the House of Commons endorsing the declaration. The Tories opposed it. The new century has brought some closure to other issues, such as the release of the final report of the Ipperwash Inquiry into the death of Dudley George, along with the Ontario government’s pledge to return the provincial park to the Stoney and Kettle Point First Nation. The residential schools settlement provided some of the Aboriginal survivors of designated residential schools with at least some compensation for their tragic experiences of assimilation over the course of the twentieth century. However, the pain of all of these experiences can never be taken back, and many Aboriginal people, individually and collectively, will never recover what they lost.

While there remains hope that the twenty-first century will bring positive change for all Aboriginal people across Canada, many of the issues now confronting them are dramatically evident. There is still a significant gap in the standard of living compared to the rest of Canada, in terms of economic development, housing, education, and health care. Unresolved land rights issues, which have always placed a tremendous strain on the relationship with the federal and provincial governments, continue to be a central issue. The federal government introduced legislation in the fall of 2007 to speed up the specific claims process through the establishment of an independent tribunal. Early in 2009 that federal legislation was passed. The slow pace of negotiations has created a deep mistrust on the part of First Nations people towards the federal and provincial governments and their commitment to resolve long-standing disputes.

The foreign policy stance on indigenous rights by the federal government was a startling reminder that Canada’s policy on Aboriginal rights—as human rights—

always has been one of denial, and thus a failure. Kenneth Deer, a Mohawk from Kahnawake and editor of *The Eastern Door*, reflected on Canada's failure at the UN Commission on Human Rights in 2007, noting that the influence and image of Canada as an advocate for human rights abroad has been severely damaged. Canada, after all, had played a central role at the United Nations over the previous decade in the initiation and framing of this very document. Deer noted that Louise Arbour, a former Canadian Supreme Court justice and the UN high commissioner for human rights, stated that many Canadians cling to an "unduly romantic vision" of their country as an international peacemaker and honest broker on the world scene—a vision largely rooted in the achievements of former Liberal Prime Minister Lester Pearson and the Nobel Peace Prize he won more than half a century ago. "I think Canadians have an image of themselves that is now pretty dated, that is not reflective of the contemporary position."⁸⁴ Nevertheless, for too many Aboriginal people in Canada, the recent decision has come as no surprise, and the federal government's stance at the UN has become all too familiar. In the early twenty-first century one of many unanswered questions relating to the future of Aboriginal peoples in Canada is whether they can become partners in building a more equitable nation of nations, or if they will be forced, by governments and by the indifference of public opinion, to focus exclusively, in piecemeal fashion, on their own often desperate needs. Many question marks still remain in spite of the words: "We are sorry."

Endnotes

- 1 J. W. Cell. *British Colonial Administration in the Mid-Nineteenth Century*. (New Haven: Yale University Press, 1970), especially see his "Introduction."
- 2 Toronto, *Globe and Mail*, April 18, 2008, p 1.
- 3 David T. McNab, "Visitors to Turtle Island: The Impact of Indigenous People and Places on the European Newcomers," manuscript in process.
- 4 Editor's note: The author refers here to all Aboriginal people while recognizing that not all are covered by the *Indian Act*. It is not our convention to use "Amerindians" in our publications, but the author chose this designation and we have decided to leave it in the text.
- 5 ABC News Online, "UN council approves indigenous rights treaty," June 30, 2006. Richard Reynolds in Toronto and wires.
- 6 "Endorsing their rights," *Indian Country Today*, posted April 21, 2008, <www.indiancountry.com>, accessed on April 24, 2008.
- 7 McNab, "The Spirit of Delgamuukw and Aboriginal Oral Traditions in Ontario," in *Beyond the Nass Valley: National Implications of the Supreme Court's Delgamuukw Decision*, Owen Lippert, ed. (Vancouver: The Fraser Institute, 2000), 273–83.
- 8 Alex Neve and Murray Klippenstein, "Ipperwash is still all about the land," *Toronto Star*, August 26, 2006, F5.
- 9 Editor's note: This is most often the case with treaty Indians, except for those few First Nations who happen to have been fortunate enough to have reserve or ancestral lands where valuable minerals and fossil fuels are found and who have established impact and benefit agreements with industry.
- 10 Summary of the First Nations Governance Act. (Ottawa: Indian and Northern Affairs Canada, 2002), <www.fng-gpn.gc.ca>, accessed November 13, 2007.
- 11 Robert D. Nault. "First Nations Governance." *Government of Canada*. Ottawa: October 9, 2002.
- 12 Summary of the First Nations Governance Act, (Ottawa: Indian and Northern Affairs Canada, 2002), <www.fng-gpn.gc.ca>, accessed November 13, 2007.
- 13 Ibid.
- 14 Fred R. Fenwick. *Law Now: First Nations Governance Act*. Canada: Volume 28, issue 3, p. 3, January 2004.
- 15 Ibid., p. 4.
- 16 Paco Francoli. *Hill Times: Showdown on Governance Act Expected*. Canada: Issue 685, May 5, 2003, p. 3–4.
- 17 Ibid., p. 2; the author's discussions with federal officials in the Ontario Regional Office of the federal Department of Indian Affairs, November 2006.
- 18 Fred R. Fenwick. *Law Now: First Nations Governance Act*. Canada: Volume 28, issue 3, January 2004. p. 4–5.
- 19 Ibid.
- 20 Rana F. Abbas. *Windspeaker: We've heard it all before*. Edmonton: Issue 3, Volume 21, June 2003. p. 12–13.
- 21 Ibid.
- 22 Editor's note: The 330 First Nations referred to here are those that have chosen to have leaderships chosen in traditional ways. These same communities may also have "*Indian Act*" elected governments.
- 23 Summary of the First Nations Governance Act, (Ottawa: Indian and Northern Affairs Canada, 2002), <www.fng-gpn.gc.ca>, accessed November 13, 2007.
- 24 Paco Francoli. *Hill Times: Showdown on Governance Act Expected*. Canada: Issue 685, May 5, 2003, p. 2–3.
- 25 Rana F. Abbas. *Windspeaker: We've heard it all before*. Edmonton: Issue 3, Volume 21, June

- 2003, p. 12–13.
- 26 Paul Barnsley. *Windspeaker: Governance Act dead, for now-Nault*. Edmonton: Volume 21, issue 8, November 2003. p. 18.
- 27 Ibid.
- 28 Wayne Warry. *Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government*. (Toronto: University of Toronto Press, 1999).
- 29 <www.ainc-inac.gc.ca/nr/spch/2007/ang_e.html>
- 30 Ibid.
- 31 Ibid.
- 32 <www.ainc-inac.gc.ca/nr/prs/j-a2007/2-2845_e.html>
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- 37 Tracey Tyler. “Native Band Can’t Enact Labour Code, Court Rules; Mississaugas tried to ban strikes at Blue Heron casino,” *Toronto Star*, November 28, 2007.
- 38 David T. McNab. *Circles of Time*, p. 182.
- 39 <www.pch.gc.ca/special/gouv-gov/section2/infobox4_e.cfm>
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- 41 Ibid.
- 42 Sidney B. Linden. *Report of the Ipperwash Inquiry: Volume 4 Executive Summary*. (Toronto: Ministry of the Attorney General, 2007), p. 43.
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- 44 Ibid., p. 73.
- 45 <www.cbc.ca/canada/story/2007/12/20/ipperwash-ont.html>
- 46 Ibid.
- 47 For a recent comparison, albeit superficially, of land rights in South Africa and Canada, see Joan G. Fairweather, *A Common Hunger, Land Rights in Canada and South Africa*. (Calgary: University of Calgary Press, 2006); Ipperwash is referred to on 197–98.
- 48 <www.ainc-inac.gc.ca>
- 49 <www.ctv.ca/servlet/ArticleNews/story/CTVNews/20060712/caledonia_protest_060712/20060712/>
- 50 <www.aboriginalaffairs.osaa.gov.on.ca/english/caledonia/faq.htm>
- 51 <www.ctv.ca/servlet/ArticleNews/story/CTVNews/20060712/caledonia_protest_060712/20060712/>
- 52 <www.cbc.ca/news/background/caledonia-landclaim/index.html/accessed/11/12/07>
- 53 Ibid.
- 54 Ibid.
- 55 See McNab (co-editor, with Bruce W. Hodgins and Ute Lischke), *Blockades and Resistance: Studies in Actions of Peace and the Temagami Blockades of 1988–89*, (Waterloo: WLU Press, 2003), p. 1–10; and *Circles of Time: Aboriginal Land Rights and Resistance in Ontario*, (Waterloo: WLU Press, 1999), p. 1–10.
- 56 <www.aboriginalaffairs.osaa.gov.on.ca/english/caledonia/faq.htm>
- 57 The author was present in 1981 when this event occurred. He was then working for the provincial government as the senior Indian land claims researcher in the former Office of Indian Resource Policy in the Ontario Ministry of Natural Resources.
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- 60 Ibid.
- 61 For example, the author of this chapter was interviewed on this event before this day of action by CBC national reporter Chris Grosskurth and it aired on June 29, 2007, on the six o'clock national news.
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- 64 <www.ainc-inac.gc.ca/nr/prs/s-d2007/2-2970-eng.asp>
- 65 See McNab (with Ute Lischke), "Actions of Peace: Introduction," in *Blockades and Resistance: Studies in Actions of Peace and the Temagami Blockades of 1988–89*, Bruce W. Hodgins, Ute Lischke, and David T. McNab, eds., (Waterloo: WLU Press, 2003), p. 1–9; and "Remembering an Intellectual Wilderness: A Captivity Narrative at Queen's Park in 1988–89," p. 31–53.
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- 83 AFN Press Release, May 19, 2009, accessed at <www.afn.ca/article.asp?id=4518>
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