

## COMMISSIONER LINDEN'S OPENING REMARKS IPPERWASH INQUIRY HEARINGS

April 2005

- Before we move on to the next group of witnesses, I would like to take a few minutes to reflect on the work of the Inquiry to date.
- With the benefit of much reading, research and listening over the last number of months, we now know a great deal more than we did when we began. Accordingly, we are in a better position to bring more focus to the scope of the Inquiry.
- It is important that we keep in mind the specific mandate of the Inquiry at all times - that is, "to inquire into and report on events surrounding the death of Dudley George and to make recommendations directed to the avoidance of violence in similar circumstances".
- When these hearings began, I stated my interest in achieving a number of other broad goals. These included a desire to contribute to public understanding of the events in question and the circumstances surrounding them which I hoped might, in turn, contribute to some healing among those affected.
- I also expressed my intention to be guided by the same principles that have guided other commissions, namely: thoroughness, openness to the public, fairness and expedition.
- Through this hearing process, which is the most public aspect of the Inquiry, I believe we have been successful, so far, in going beneath the surface of the controversy and exploring some of the factors that may have given rise to it. We will continue to do this as other witnesses give their testimony.

- I hope all parties and indeed, the public at large, will agree that we are also contributing to understanding and public education through the research and other policy work that we have undertaken.
- I am confident that the over 20 research papers being written for the Commission and our accompanying consultations will add considerably to our knowledge and understanding.
- While it may be naïve to expect that the Inquiry process can contribute to the healing of long-standing feelings and emotions, I am of the view that the process, of openness and communication, can create an environment that makes healing easier.
- I believe we have had some success in achieving this goal and I want to encourage those affected, to use what is learned through the Inquiry as a starting point for what might be achieved beyond the Inquiry itself.
- I believe our long list of past and future witnesses demonstrates our desire to be thorough and fair. The same is true of our efforts to encourage participation by all parties at this public hearing and in the Part 2 process.
- Our efforts to be fair and thorough must be balanced with conducting the Inquiry in a timely and efficient fashion. I want to recognize the contribution being made by all parties to help this process along. I would like to acknowledge the understanding of all counsel of our need to lengthen our hearing day and their efforts to ensure that cross-examinations are necessary and relevant.
- My Commission counsel and I remain committed to an expeditious process and I encourage further constructive discussions among all counsel as to how we may use our time responsibly and effectively. I believe it is in all of our interests to do so.

- It is challenging for any public inquiry to define and contain its scope given the many contributing issues and sometimes competing interests that an investigation of this kind can raise. I think this is particularly true for inquiries such as this one that is mandated to go beyond simple fact-finding.
- I am always mindful of the scope of the Inquiry, which is crucial. It affects the selection of witnesses, the duration of the hearings, the cost of the Inquiry, and the subject matter of its recommendations.
- The scope of any inquiry must have limits and, sometimes, assumptions about these can lead to expectations that go beyond the actual mandate.
- Our Order-in-Council states that the Inquiry is to investigate the events *surrounding* the death of Dudley George. Among the challenges is to define what the term “surrounding” means. How far back in time is relevant to our mandate? How far forward? We must be sufficiently broad and yet appropriately focused to achieve our objective and fulfill our mandate.
- We must be necessarily mindful of the limits of our jurisdiction. We are a provincially-appointed inquiry, yet we are investigating issues that clearly have federal implications.
- I have stated before that we intend to explore both the specific circumstances of the shooting of Dudley George, as well as the context in which that shooting occurred. Both are key to the Inquiry’s “fact-finding” mandate.
- Having said that, there is considerable room for interpretation as to what this means.

- In my view, the Inquiry's mandate, *to investigate and report on the events surrounding the death of Dudley George*, must remain focused on the decisions made and the actions taken by all involved prior to and following the shooting, in September 1995, outside Ipperwash Provincial Park. In other words, what happened and who was involved?
- At the end of our investigation, I will be making recommendations as to how to avoid violence when similar situations occur in the future, that is, in situations giving rise to aboriginal protests which draw the attention of police and government.
- I believe, the Inquiry also has an obligation to acknowledge that systemic or historic circumstances may have contributed to the actions taken and decisions made. While many of these circumstances pre-date the events that gave rise to this Inquiry or appear to fall outside its jurisdiction or mandate, in my view they shed light on why the events occurred. That is what is meant by context.
- The obligation to consider context prompts us to examine the larger Canadian experience in areas such as: Native land treaty rights, policing practices by both Aboriginal and non-Aboriginal police forces and government's role in policing activities. In my report, I expect to consider these issues when making my recommendations.
- There are two specific issues which have been given considerable attention in the evidence at these hearings. There is the issue of the 'land'. How it is described? Who owns it? Should there be compensation and other related issues. And there is the second issue of recognition and status of the self-identified 'Stoney Pointers' in relation to the Kettle and Stony Point Band.

- It is recognized that these two issues form an important back-drop and context to our work even though they pre-date the events we have been mandated to investigate.
- While I may comment on these issues in my final report, it is unrealistic to expect that this provincially-appointed Inquiry can, by itself, resolve these long-standing questions.
- Having said that, I am hopeful that our work can and will contribute to their resolution in a timely fashion in a way that is acceptable to all parties.
- To this end, although the Federal government has chosen not to participate as a party to this Inquiry, I also expect to comment in my report, on the role of the federal government in these matters.
- As the work of the Inquiry progresses, its scope and shape will become clearer and I may provide periodic comment, without drawing conclusions, as we proceed.
- During the next phase of the Inquiry we will be calling emergency response, medical, hospital and other health care witnesses. We will follow with witnesses from law enforcement agencies, other members of the local community and finally, with witnesses who are civil servants, both federal and provincial, and politicians.
- We still have a way to go, but in my view, our work so far has been constructive and for some, even therapeutic. I am confident that if we continue in the same spirit, we will reach a successful conclusion.
- Thank you.