

**In the Matter of the Public Inquiries Act, R.S.O. 1990 c. P. 41**

**And In the Matter of the Commission of Inquiry into the  
Circumstances and Events Surrounding the Death of Anthony  
O'Brien (Dudley) George**

**Submissions on behalf of Marcel Beaubien**

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## A. INTRODUCTION

Throughout our participation in the Inquiry we have tried to be efficient and focused in our participation, and particularly in our cross-examination of witnesses. In our submissions we will attempt to be equally efficient and focused. This argument will not attempt to conduct a thorough review of the several months of evidence but rather it will focus on the evidence in relation to Marcel Beaubien (hereinafter “Beaubien”) as it relates to the Commissioner’s mandate, namely to inquire into and report on events surrounding the death of Dudley George.

The submissions of this party will address the following issues:

- 1) The Role of the Federal Government
- 2) The Province of Ontario’s Involvement and the Reasons for that Involvement
  - a) Attention from Media and the Federal Government
  - b) Burial Grounds
  - c) Ownership Claim
- 3) The Deterioration of Relations Between Natives and Non-Natives in the Area
- 4) Internal Conflict Within the Band
- 5) A New Government and a New M.P.P.
  - a) A New Government
  - b) The Role of an M.P.P.
- 6) Marcel Beaubien’s Specific Involvement
  - a) Early Signs of Trouble After the Election
  - b) Meetings With O.P.P. and Correspondence by Beaubien During the Summer of 1995
  - c) Faxes Sent to Bill King on September 5<sup>th</sup> and 6<sup>th</sup>
  - d) Meeting at Forest Detachment September 6, 1995
  - e) Beaubien Not Instructing or Attempting to Influence O.P.P.

## **B. THE FEDERAL GOVERNMENT**

- 1) The Federal Government's occupation of the Stoney Point lands and the creation of Canadian Forces Base Ipperwash was a legitimate action under the *War Measures Act*, in the initial years of the Second World War, which is commonly described as taking place between 1939 and 1945.
- 2) Following that war, there existed a period of conflict that was principally a balancing of the powers of the two strongest military nations arising out of the Second World War, namely the United States and Russia. That conflict is commonly said to have ended with the falling of the Berlin Wall.
- 3) It can be argued that, in accordance with the Federal order-in-council that first authorized the taking of the lands under the *War Measures Act*, the Stoney Point lands should have been returned to the Kettle and Stoney Point Band as early as 1945 and certainly by the 1990s.

**Exhibit P-8, Tab 89, Document 282 (Inquiry Document No. 4000282)  
Privy Council Order in Council No. 2913 dated April 14, 1942**

- 4) In 1993, the elected Band Councillors were in the process of negotiating the return of the CFB Ipperwash lands to the Band. The negotiations were progressing slowly and this frustrated some Band members. There was also a concern of the descendants of those Band members who were actually displaced from CFB Ipperwash about whether or not they would actually get their historical lands, and any reparations themselves.
- 5) In the late spring of 1993 a group of Kettle and Stoney Point Band members moved onto a small area at CFB Ipperwash to show both their frustration with the Federal Government and their concern about certain views amongst their own Band members.
- 6) It is not the purpose of this party to go into the details of the CFB Ipperwash occupation or the change in the level of activity of the occupiers between the spring of 1993 and the summer of 1995, other than to submit that the CFB Ipperwash occupation and the failure of the Federal Government to act promptly was a direct cause of the takeover and occupation of the Provincial Park.

7) On November 10, 2004, in his testimony Glen Bressette addressed this issue:

**Q: Okay. And I think you've explained and others have explained the frustration with the government of Canada that resulted in protests outside the Army camp base, the march to Ottawa that we've talked about, and—and then the occupation of the Army base, correct?**

**A: Yes.**

**Evidence of Glen Bressette, November 10, 2004, p. 90**

8) In his testimony of November 25, 2004, Roderick Abraham (“Judas”) George, one of the principal players in the Provincial Park occupation, made clear the occupiers' view of the Federal Government and how the Provincial Government through its ownership of Ipperwash Provincial Park got caught up in the Federal land dispute.

**Q: Okay. And it is fair to summarize your answer as: if the federal government had listened to your peoples earlier protests over the return of the Army Base, and had the federal government shown respect to the participants in the march to Ottawa, and had the federal government actually returned the Army Base as promised in 1994, the tragic events of September 1995 could have been avoided. Is that a fair summary of your answer to Mr. Millar?**

**A: If they had have returned the land to the proper people, yes.**

**Q: And it was the Federal Government with whom you had the dispute, correct?**

**A: That's correct.**

**Q: And in September 1995, the Province, who your people had not had a longstanding dispute or grievance with, got caught in the dispute between your people and the Federal Government because of the Federal Government's inaction, correct?**

**A: That's—would be fair to say, yes.**

**Evidence of Roderick Abraham George, November 25, 2004, at pp. 35-36**

9) On March 3, 2005, Band Chief Tom Bressette (hereinafter “Chief Bressette”) also gave the following evidence:

**Q: But you stated, though, that the occupation wasn't right, but that one of the causes of the unrest that led to the occupation was the inaction of the Federal Government?**

**A: Yes**

**Evidence of Tom Bressette, March 3, 2005, at p. 153**

10) It is submitted that had the Federal Government returned the lands to the Kettle and Stoney Point Band prior to September of 1995, the occupation of the Provincial Park would not have occurred on September 4, 1995 and the violence that ensued in those initial three days and the following days could have been avoided.

### **C. THE PROVINCE OF ONTARIO'S INVOLVEMENT**

11) It is submitted on behalf of this party that, as of September 4, 1995, the occupiers, or Residents of Aazhoodena, did not have a longstanding dispute or any known dispute or grievance with the Province of Ontario. The Province simply got caught in the dispute between the occupiers and the Federal Government.

**Evidence of Roderick Abraham George, November 25, 2004, at p. 36, line 2**

12) There had been no long-standing dispute over the Provincial Park between the Kettle and Stoney Point Band and the Province of Ontario.

13) As a result, it is important to closely examine the reasons given as justification for the occupation of Ipperwash Provincial Park on September 4, 1995.

#### **Attention From Media and Federal Government**

14) It is this party's position that the occupation of Ipperwash Provincial Park was carried out so that the occupiers could gain more attention from the media and the Federal Government with respect to the Army Base issue.

15) There was evidence provided to the Inquiry that Dudley George himself indicated that the takeover of the Park was necessary to get media attention for their cause with respect to the Army Base.

**Q: Okay. And then Dudley, you said – you told us yesterday Dudley gave you his other reason for occupying the Park and you said these words:**

**“Dudley said we need to take over the Park to get media attention, because we’re not getting enough at the Army base.”**

**Correct?**

**A: Yes.**

**Q: And that’s the reason you moved to take over the – the Park at that particular day after the Park had been closed to Park – to campers, isn’t it?**

**A: Yes.**

**Evidence of Glen Bressette, November 10, 2004, at pp. 92-93**

16) While giving testimony on December 9, 2004, Warren George corroborated Glen Bressette’s evidence that at least one of the reasons the occupiers took over the Park was to get media attention, to pressure the Federal Government to return Camp Ipperwash to the Stoney Point people because they weren’t getting enough media attention at the Army Base.

**Q: Do you agree with Mr. Bressette and – and Mr. Dudley George, that the reason to take over the Park was to get media attention, to pressure the Federal Government to return Camp Ipperwash to the Stoney Point people? Because you weren’t getting enough at the Army Base – enough media attention? Do you agree with him?**

**A: Yes. It could have been some of the reasons, yes.**

**Evidence of Warren George, December 9, 2004, at p. 150**

17) Roderick Abraham (“Judas”) George also confirmed that the group of occupiers moved into the Park to get the attention of the federal government.

**Q: And that on September 4<sup>th</sup>, you moved into the Park, and I don’t mean you personally, but the – the group of occupiers, to get the federal government attention, correct?**

A: That's correct.

Evidence of Roderick Abraham George, November 25, 2004, at p. 34

### **Burial Grounds**

18) There are parties to this Inquiry who point to the 1937 correspondence between the Band, the Indian Agent, the Federal Secretary of Indian Affairs, and the Provincial Deputy Minister of Lands and Forests as proof of the existence of a burial ground at Ipperwash Provincial Park and rely upon that correspondence as a reason to employ a self-help method of entering and occupying the Park to protect the alleged burial grounds.

**Exhibit P-8, Tab 97, Document 377 (Inquiry Document No. 4000377)  
Band Council Resolution dated August 12, 1937**

**Exhibit P-8, Tab 98, Document 378 (Inquiry Document No. 4000378)  
Letter from J.C. Trenouth to T.R.L. MacInnes dated August 13, 1937**

**Exhibit P-8, Tab 99, Document 379 (Inquiry Document No. 4000379)  
Letter from T.R.L. MacInnes to W.C. Cain dated August 17, 1937**

**Exhibit P-8, Tab 100, Document 380 (Inquiry Document No. 4000380)  
Letter from W.C. Cain to T.R.L. MacInnes dated August 19, 1937**

- 19) It is submitted that the existence or non-existence of a burial ground is not the reason that Ipperwash Provincial Park was entered on the *specific* date of September 4, 1995.
- 20) The Band Council resolution of August 12, 1937, the letter from Indian Agent J.C. Trenouth of August 13, 1937, and the letter dated August 17, 1937 from T.R.L. MacInnes, Secretary of Indian Affairs, to W.C. Cain, Deputy Minister of Lands and Forests, are not evidence of the *actual* existence of a burial ground, but rather evidence only that the Band asked, through the Federal Government, that the "Old Indian Burial Ground" be marked out and fenced off so that it would be protected.
- 21) The Provincial Deputy Minister of Lands and Forests, W.C. Cain, subsequently wrote to the Federal Secretary of Indian Affairs, T.R.L. MacInnes, within days of the original resolution and advised that the Province "...will respect the natural wishes of the *Indians*", but the Deputy Minister was not aware of the location of the alleged burial grounds.

**Exhibit P-8, Tab 100, Document 380 (Inquiry Document No. 4000380)  
Letter from W.C. Cain to T.R.L. MacInnes dated August 19, 1937**

22) The protocol in 1937 was for the Province to communicate with the Band through the Federal Secretary of Indian Affairs and the Indian Agent. However, after the Provincial Deputy Minister advised his Federal counterpart that the Province would honour the “natural wishes of the Indians”, subject to the caveat that he did not have the facts regarding the *location* of the alleged burial ground, the Federal Government did not respond, nor is there any indication from the evidence of Joan Holmes that the Band heard from the Federal Government again on the issue. There is also no indication that there were any further Band resolutions with respect to this issue prior to September of 1995.

**Evidence of Joan Holmes, September 8, 2004, pp. 188-193**

23) In the 58 years between 1937 and 1995 there is not another letter from the Band to the Federal Government on this issue, not a single letter from Band Council to the Provincial Government on the issue, no reply by the Federal Government to the W.C. Cain letter, and no other correspondence from the Federal Government, in its fiduciary or *parens patriae* role as protectors of the Natives, to the Provincial Government regarding a burial ground at Ipperwash Provincial Park.

**Evidence of Joan Holmes, September 8, 2004, pp. 188-193**

24) So while there were rumours of a burial ground at the Park, there had been no correspondence or meetings with Provincial officials with respect to that issue, nor any band resolutions between the 1937 correspondence and September 1995.

25) It is this party’s position that if it was the desire of certain native persons to protect an alleged “Old Indian burial ground” then the Federal Government’s inaction as early as 1937 in relation to the alleged burial grounds may have contributed to the occupation of the Provincial Park in September of 1995.

**Evidence of Joan Holmes, September 8, 2004, pp. 188-193**

26) It is submitted that if there in fact was or is an “Old Indian Burial Ground” in the Provincial Park, it was incumbent upon the Federal Government to protect the



Natives by arranging, on their behalf, with the Province to locate, then fence and protect such a location. This is especially so given the fact that the Province had stated that it would “respect the natural wishes of the Indians” if it had the necessary information about the location of the burial ground.

- 27) Furthermore, prior to September of 1995, the group of occupiers never met with the Kettle and Stoney Point Band Council to request their assistance in protecting a burial ground in Ipperwash Provincial Park. They also did not write to the Kettle and Stoney Point Band Council for that purpose, nor did they contact the local provincial Member of the Legislature or the local federal Member of Parliament about protecting burial grounds in the Park.

**Evidence of Roderick Abraham George, November 25, 2004, at p. 32**

- 28) Even Band leadership did not believe that there was a burial ground in the Provincial Park. Chief Bressette gave evidence on the subject on March 2, 2005.

**Q: Okay. And we’ll get to the keys, because I think that happened after—on September 4<sup>th</sup> or shortly thereafter. But prior to September 4<sup>th</sup>, do you recall—you’ve said that you’ve had discussions with Mr. Dale Linton of the OPP and can you recall if you told Mr. Linton that there was a rumour that the people may occupy the Park?**

**A: Oh they were the ones with the – doing the, I guess, collecting and asking me things and like I told them, like I told everybody else, it’s – it’s always been the same thing. I don’t know what goes on down there and I did hear that that rumour was going around about the burial ground.**

**I went to the former Chief, Charlie Shawkence, my father-in-law and I asked him about that. I said, Is there a burial ground there and his response to me was, he said, I don’t think, you know, our people would bury people – their people in sand – is basically what he had stated to me at the time and he said, I don’t think there’s a burial ground down there.**

**Evidence of Tom Bressette, March 2, 2005, at pp. 91-92**

- 29) The evidence of Chief Bressette indicates that he did not even learn about the burial ground issue until around the time the Provincial Park was taken over.

**Q: And when did you learn, specifically, about the burial ground issue such that you went to speak to your father-in-law about that issue?**

**A: Well, it was because there were issues being raised around it. I didn’t do any research into that particular piece of property and I know he done a**

**tremendous amount of reading and research on his own and I thought he would have the answer.**

**Q: And so you spoke to him on – do you recall September 4<sup>th</sup>, September 5<sup>th</sup>?**

**A: I think it was probably around the time that the Park was taken over. That was when I was getting all kinds of calls from Mr. Beaubien wanting to know the status of the Park as well as the OPP and – and that’s where those – that’s when I did approach him on that.**

**Evidence of Tom Bressette, March 2, 2005, at pp. 95-96**

30) Chief Bressette also suggested that the burial ground issue did not arise until Federal Minister of Indian Affairs, Ron Irwin arrived at Kettle Point, after the shooting of Dudley George with his “secret documents” with respect to burial grounds in the Park

**Q: And during the days following June – September 6<sup>th</sup> and the following week, at one point Mr. Irwin the Minister of Indian and Northern Affairs attended at Kettle Point?**

**A: Yes.**

**Q: And the – I believe he came on – can you recall when he attended?**

**A: I’m not sure but it was another thing that angered us a great deal is him showing up after everything had occurred with his secret documents. That was something that really angered me about his whole – his whole visit at that time. It was like, if they had those – that information, why weren’t they communicating that to the provincial government instead of not – not dealing with those issues.**

**Q: And that’s what you’re referring to as information that Mr. Irwin had with respect to burial grounds in the Park?**

**A: Yes.**

**Q: And that was information that his department disclosed after September – September the 6<sup>th</sup>?**

**A: Yes.**

**Evidence of Tom Bressette, March 2, 2005, at pp. 157-158**

**Q: Okay. Finally, I understand at the time of your meeting, some of the occupiers were beginning to suggest that there were burial sites at the Park.**

**This would have been around – shortly after Mr. George’s – it might have been shortly before Mr. George’s unfortunate death, but certainly afterwards there were suggestions of burial grounds. Do you recall that?**

**A: Yes, and I believe that happened because Minister Irwin showed up with documents from 1937, basically stating there was a burial site in the Park.**

**Evidence of Tom Bressette, March 3, 2005, at p. 159**

31) The Inquiry heard evidence from at least one of the occupiers to the effect that even if there was a burial ground in the Provincial Park, there was no need to protect those graves on September 4, 1995, as the Park closed for the season on that day.

**Q: And you said yesterday, “Dudley told me that he didn’t want campers partying on the graves.” You recall saying that yesterday?**

**A: Yes.**

**Q: Okay. But of course by the time you and others entered the Park on September 4<sup>th</sup>, 1995, there were no campers at the Park because it had closed to campers on September 4<sup>th</sup>, right?**

**A: Yes.**

**Q: Okay. So there was no particular need to protect the graves from campers partying on them on September 4<sup>th</sup>, since there were no campers there any more, right?**

**A: Right.**

**Evidence of Glen Bressette, November 10, 2004, p. 92**

32) It is this party’s position that the occupation of the Provincial Park was carried out for the purpose of getting media attention in order to pressure the Federal Government and not because of an “old Indian burial ground”. The burial ground rationale for entering the Provincial Park would not have had any cause had the Federal Government acted in the best interests of the local natives and made arrangements with the Province with respect thereto, as it was clear as early as 1937 that the Province of Ontario was prepared to accede to the wishes of the natives and locate, fence and protect the burial grounds, if in fact they existed and their location was disclosed.

33) In any event there was no triggering event in September 1995, which necessitated a take over of Ipperwash Provincial Park to protect burial grounds at a time when the Park was closed for the season.

### **Ownership Claim**

34) There was no evidence presented of a dispute between the Kettle and Stoney Point Band and the Province of Ontario over Ipperwash Provincial Park. There was no evidence of a Land Claim to the Park being filed by anyone prior to September 1995 or in the ten years thereafter.

35) It has been suggested by some at this Inquiry that the Provincial Park is part of a larger tract of land that may have been improperly obtained from the Band by the Federal Government. However, there is no evidence that the Band, or anyone else on behalf of the Band members, ever contacted the Provincial Government in this regard at any time prior to September 6, 1995.

36) In any event, the Provincial Government did not receive the land where the Provincial Park is situated from the Federal Government. Instead, the Province purchased the land from a private landowner, and it is therefore submitted that the Province of Ontario is an innocent third party purchaser for value in relation to any attempt by the First Nation to impugn the ownership status of the Province.

## **D. THE DETERIORATION OF RELATIONS BETWEEN NATIVES AND NON-NATIVES IN THE AREA**

37) There was evidence during the Inquiry to the effect that some of the occupiers were indicating to local residents that their houses may be taken over.

**Q:** Okay. Were you – first of all, were you aware of any discussions amongst the Stony Pointers that were directed towards either the possibility or the probability of moving further still, in other words beyond the traditional Park boundary?

**A:** No, I don't know of any discussions.

**Q:** You weren't aware of any of those discussions?

**A:** No. I know some people would like say stuff like that. Well if they want to get real finicky about us taking over the Park, we should just take over some more and then they'll worry about that and we don't worry about the Park.

**Q: You're going to have to forgive me. I know it's because I'm tired, I'm having trouble hearing you a little bit, Mr. – Mr. Simon. Could you just repeat that, please?**

**A: Just some people thought, I don't know, just people would just like off the top of their heads would say, oh yeah, we can take over your house too. There's like people coming down, like cottagers and stuff that were always walking by.**

**Evidence of Marlin Simon, September 30, 2004, at p. 191**

**Q: On September 30<sup>th</sup> of this year in your previous testimony, my notes indicate that you told Ms. Tuck-Jackson that from time to time after May of 1993 some of the Occupiers had conversations with cottagers in the area and something to the effect was quote:**

**“We've – we've taken over the army base now and we're going to take over your cottages, too.”**

**is – is – do you recall that that's the gist of what you said?**

**A: Some people could have said that, yeah.**

**Q: And did these – this type of conversation happen more than once or was it just a one (1) time –**

**A: It could have happened more than once.**

**Evidence of Marlin Simon, October 18, 2004, at p. 188**

38) Chief Bressette himself was upset about the occurrence of general violence, even from among the occupiers of the Park.

**Q: And my understanding is you were upset not only that somebody got shot by the police, but that there was this general violence, even from among some of the occupiers of the Park at the time?**

**A: Yeah, I think there were some instances that were sort of creating some concern in our community.**

**Evidence of Tom Bressette, March 3, 2005, at p. 155**

39) Chief Bressette was also concerned about the fact that some of the people who had occupied the Park were capable of violence and he actually personally feared for the security of himself and some of his fellow Band Councillors.

**Q:** Now, you suggested – and I’m coming to the end of my questions – you’d suggested that some of the people who had occupied the Park were, in your view, capable of violence.

I’m also of the understanding that you told Messrs. Hodgson and Allen that you personally feared for security of yourself and for some of the people around you – some of your fellow Councillors; would that also be true?

**A:** Yes.

**Evidence of Tom Bressette, March 3, 2005, at p. 158**

40) Band Councillor Gerald George went so far as to write a Letter to the Editor in the Forest Standard on August 30, 1995 in response to reports of campers being harassed at the beach of the Army Camp and at Ipperwash Provincial Park.

**Exhibit P-73, Letter to Editor from Gerald George, dated August 30, 1995**

**Q:** And why did you write this letter?

**A:** I wrote that letter because we had reports coming in that some of the campers were being harassed when they were on the – the beach of the Army Camp and when they were camping inside the Ipperwash Provincial Park.

**Q:** And why was that of concern to you?

**A:** It was starting to affect the Band membership as a whole from the actions of a few. A lot of trouble was happening at the high school in Forest between our kids and the non-native kids.

As this went along and after – after these reports were coming out, it started getting worse at the highschool for our kids out there. And I was getting quite angry because even some of my friends in Forest, they stopped talking to me and I was feeling that from the actions of a few, it was reflecting on the Band membership as a whole.

And again, Council did not want to put anything in the paper to say we didn’t – we weren’t supporting this kind of action, that we were – I think a lot of people in a certain area thought Kettle and Stony Point Band Council was supporting this action.

**Evidence of Gerald George, January 13, 2005, at pp. 49-50**

41) O.P.P. Incident Commander John Carson (hereinafter “Carson”) was well aware of the concerns of the local non-native and native citizenry and the anxiety in the area without having to be informed of this by Beaubien.

**“I think the other piece that you haven’t mentioned but certainly was in the public interest at that time, it was also the West Ipperwash suit that was occurring at that time, that brought all of these issues to a – certainly a much higher anxiety level, I would suggest.”**

**Evidence of John Carson, June 2, 2005, at p. 120**

**“But we were certainly well aware of the community anxiety that was taking place. I mean, this – this had been an ongoing issue before the Provincial Park issue came into the degree it did on September the 4<sup>th</sup> because of issues that had been occurring in West Ipperwash around the lawsuit that was underway and arguments that had been taking place pretty consistently through the summer in regards to the West Ipperwash beach access, too.”**

**Evidence of John Carson, June 2, 2005, at p. 137**

## **E. INTERNAL CONFLICT WITHIN THE BAND**

42) Chief Bressette gave evidence at the Inquiry to the effect that he was not in direct communication with the occupiers, he did not know what was going on in terms of actually who was doing what in relation to the occupation, he was not directing what was going on with the occupation and was not involved with the occupation.

**Evidence of Tom Bressette, March 2, 2005, at pp. 87-88**

43) Chief Bressette also made it clear in his testimony that the Band Council had publicly stated on numerous occasions that the Band did not support what was going on at the Army Camp.

**Evidence of Tom Bressette, March 2, 2005, at p. 88**  
**Evidence of Tom Bressette, March 3, 2005, at pp. 152-153**

44) Chief Bressette also explicitly confirmed that he did not agree with the actions of the occupiers or the occupation of the Park.

**Q:** And you stated at that time that you didn't agree with the actions of the occupiers or the occupation of the Park, and that was your view at that time; is that fair?

**A:** Yes.

**Q:** But, you stated, though, that the occupation wasn't right, but that one of the causes of the unrest that led to the occupation was the inaction of the Federal Government?

**A:** Yes.

**Q:** And I'm understanding that Messrs. Hodgson and Allen understood from you that that was part of a main problem behind this whole situation?

Now, you expressed at that meeting that the occupiers were, I'm going to use the word, dissident, because I can't think of any other word to use, but they were a dissident group from your Band, but that they didn't speak for your Band; is that fair?

**A:** Yes.

**Evidence of Tom Bressette, March 3, 2005, at pp. 153-154**

45) Cecil Bernard George also described a communication gap that developed between members of the Band living at Kettle Point and the members of the Band living at Stony Point in the early part of August, 1995

**"I grew up with quite a few of the people that are living there now. I grew up with the majority of everyone that was – that are living there now. But just because there was kind of like a – I felt there was a little separation between your friends, because the Government wouldn't get directly involved in – letting us you know, you know, what was – what was going to be done about the land.**

**So that, I guess there was a blame placed upon the – you know, you got to – you got to blame somebody, because you're not showing your best. So that, it took – there was a slow, gradual change in – in your friends, I'd put it, in the ones that moved down there.**

**You know, I kind of witnessed it, I didn't like to see it happen, because you were so used to growing up with – with your friends down there, and then all of a sudden there was a – a lack of communication and I don't know if it was because I – I accepted a position as a Council Member for – for – for Kettle and Stony Point and I don't know if it was held against me.**

**But all I wanted to do was, you know, try to decide what was best as a whole and there was a, you know, and there was a communication gap and I didn't like to see it but it happened."**

**Evidence of Cecil Bernard George, December 6, 2004, at pp. 179-180**



46) During his testimony on January 13, 2005, Gerald George suggested that, over time, the occupation of the Army Base began to turn into a separatist issue within the Band. Gerald George voiced his concerns in this regard in a Letter to the Editor of the Forest Standard dated February 9, 1994.

**Exhibit P-119 (Inquiry Document No. 1002054)  
Gerald George Letter to the Editor dated February 9, 1994**

**Q: And why did you write this letter to the editor in February of 1994?**

**A: I was getting – I didn't like the way the whole thing was starting to turn. When – when we first moved into the Base it was just to get the land back. And over – over time, starting about late – in September 1993 it started to turn into a separatist issue.**

**Evidence of Gerald George, January 13, 2005, at pp. 20-21**

## **F. A NEW GOVERNMENT AND A NEW M.P.P.**

### **A New Government**

47) In the summer of 1995, Beaubien had just been elected as a first time Member of Provincial Parliament (M.P.P.) for the riding of Lambton-Kent-Middlesex, having been elected as a member of the Progressive Conservative party on June 26, 1995.

48) The elected M.P.P.'s had been sworn into office and the new Progressive Conservative government had selected its Cabinet, but the first session of the legislature under the newly elected government had not commenced as of September 6, 1995.

49) Beaubien barely knew Premier Michael Harris (hereinafter "Harris") prior to September 6, 1995 as he had had only met the new Premier at a campaign event, at a photo session at which all M.P.P.'s were photographed shaking the Premier's hand and during at least one caucus meeting. He had no private meetings or conversations with Harris about Ipperwash between June 26, 1995 and September 6th of that same year.

**Evidence of Mike Harris, February 14, 2006, at pp. 26-27, 51-52, 105, 162  
Evidence of Marcel Beaubien, January 18, 2006, at p. 269  
Evidence of Marcel Beaubien, January 25, 2006, at p. 258-260**

50) The Premier did not use his assistant, Bill King, as an intermediary to convey instructions to Beaubien.

**Q: But, let me be very clear just to clear up some of the suggestions that have gone on over – or for months, and in fact through the civil litigation you were involved in, over the years. You certainly were not passing on, from the Premier of the Province, instructions to Mr. Beaubien and he was then to have pass on to the Ontario Provincial Police in Forest or in Ipperwash.**

**A: And I – no. And I have a hard time even keeping a straight face when people say things like that, because it’s so bizarre. But, the answer is absolutely not.**

**Evidence of Bill King, November 16, 2005, at pp. 226-227**

51) Likewise, Beaubien also did not know Attorney General Charles Harnick (hereinafter “Harnick”), Solicitor General Robert Runciman (hereinafter “Runciman”) or Minister of Natural Resources Christopher Hodgson (hereinafter “Hodgson”) before the election in June of 1995 and did not meet with them privately, nor speak to them about the issues of the West Ipperwash Beach litigation, CFB Ipperrwash or the Ipperwash Provincial Park between the election on June 26, 1995 and September 6, 1995.

**Evidence of Marcel Beaubien, January 18, 2006, at pp. 269-270, 302, 305**

**Evidence of Marcel Beaubien, January 24, 2006, at pp. 58-59**

**Evidence of Charles Harnick, November 24, 2005, at pp. 60-62**

**Evidence of Robert Runciman, January 9, 2006, at pp. 87, 90, 111, 158, 162-163**

**Evidence of Chris Hodgson, January 12, 2006, at pp. 49-50, 63, 122-123, 243**

52) Beaubien’s only communication with these Ministers of the Crown came in the form of letters dated July 31, 1995, August 14, 1995, and a fax dated September 6, 1995 from Beaubien to Bill King, who was the executive assistant to Harris responsible for M.P.P. liaison, in which the author of the attached letter also copied certain Ministers and the Premier.

**Exhibit P-534 (Inquiry Document No. 1000918)**

**Letter from Marcel Beaubien to Charles Harnick dated July 31, 1995**

**Exhibit P-418 (Inquiry Document No. 1012239)**

**Letter from Marcel Beaubien to Charles Harnick dated August 14, 1995**

**Exhibit P-952 (Inquiry Document No. 1006196)**

**Fax from Marcel Beaubien to Bill King dated September 6, 1995**

53) None of these written communications from Beaubien were received by these Ministers of the Crown or their Deputy Ministers prior to September 6, 1995 and there is no evidence disputing this fact.

**Evidence of Elaine Todres, November 30, 2005, at pp. 9-16**

**Evidence of Larry Taman, November 14, 2005, at p. 72,**

**Evidence of Larry Taman, November 15, 2005, at pp. 51-54**

### **The Role of an M.P.P.**

54) Beaubien considered himself a representative of the people from the riding of Lambton-Kent-Middlesex in Toronto, as opposed to a representative of the interests of Queen's Park in his riding.

**“I would consider myself also a constituency man, a representative of the people from Sarnia – or from Lambton or Lambton-Kent-Middlesex in Toronto, as opposed to representing the Toronto interests into my riding. And there's a big difference.”**

**“Well, there's no doubt that if you are construed or perceived to be a constituency man that sometimes you don't fit the mould when you're in Toronto. But I always felt that the people – people of Lambton elected me to represent them in Toronto, not me representing the Toronto interests in my riding.”**

**Evidence of Marcel Beaubien, January 18, 2006, at p. 263**

55) Beaubien also indicated that he felt that his role was to be the pipeline between his constituency and Queen's Park.

**Q: And how did you approach your job, then, as MPP?**

**A: Not any differently than I did as a councilor or a mayor of a community. There's people that have different difficulties or problems with certain ministries; some are personal, some may business in nature, some could be the social problems that they have. My role – I felt my role was to be the pipeline between my constituency and Queen's Park.**

**Evidence of Marcel Beaubien, January 18, 2006, at p. 264**

56) Beaubien, in his own straightforward, unaffected manner described his role in the crisis at Ipperwash in the summer of 1995.

**“We don’t have a Commission at the provincial level, but for me to just play possum and ignore the situation and not knowing what’s going on – I want to know what’s going on in my riding; if there’s no policing, I want to know.**

**How they enforce the police regulation and legislation, that’s no my responsibility, but I want to know – I want to make sure that there’s a proper level of policing in the area”**

**Evidence of Marcel Beaubien, January 18, 2006, at p. 307**

57) According to Harris, Beaubien had two roles as M.P.P. of the local area.

**Q: Can you – what was your understanding of the role of an MPP such as Mr. Beaubien in 1995?**

**A: Well, he would have two (2) roles. One, as a contributor to Caucus discussions on – on government policy, on legislative initiatives that we’d be taking. And so we’d be seeking all Caucus members’ input on implementation of – of The Common Sense Revolution, development of the throne speech, development of our initial budgetary positions.**

**The perhaps most important role was to represent their constituents. And so reflect their constituents’ views in any discussions that we had on – on provincial policy issues but also to express views of constituents in – in an individual nature in dealings with government.**

**So that – that was viewed as a very important role and in the summer of ’95 we’d be expecting Mr. Beaubien to be finding office space, setting up office, hiring staff, starting to meet with constituents.**

**Evidence of Michael Harris, February 14, 2006, at pp. 50-51**

58) King confirmed Beaubien’s commitment to his constituents in his testimony of November 16, 2005.

**“Two (2) things. Marcel tended to talk in colourful language. Secondly, that’s his – I’d interpreted that as his way of saying, as most members do, when push comes to shove I’m on the side of my constituents.”**

**Evidence of Bill King, November 16, 2005, at pp. 197-198**

59) King, who had a great deal of experience in dealing with Members of Provincial Parliament and understood the role of a back bench M.P.P., provided the Inquiry with evidence in this regard.

**Q: And I suggest to you that the role of a back bench MPP, other than his or her limited role in Question Period, and their role in – in committees from time to time, the principle role was to communicate the concerns and views of their constituents to the Government at Queen’s Park, and likewise, to communicate and convey the policies and views of the Government back to their constituents. Is that a fair way to describe their role?**

**A: Yes, it is.**

**Q: And – and that’s really what their job is, right?**

**A: Yes, I can actually tell you that the Premier’s first comments to this Caucus, at which Marcel was a member, was that he advised Caucus that they had three (3) responsibilities: And number 1 was to the – to their families, number 2 was to their constituents, and number 3 was their legislative responsibilities outside the constituency.**

**Evidence of Bill King, November 16, 2005, at p. 218**

60) Runciman confirmed King’s evidence that the role of a back bench M.P.P. is to convey the feelings and concerns and views of his or her constituents to Queen’s Park. He also confirmed that a backbench M.P.P. fulfills this role, in part, by making calls to the Caucus liaison in Toronto. Mr. Runciman also confirmed that the prime role of a backbench M.P.P. is to be the voice of his or her constituents at Queen’s Park. Runciman represented a “small town rural riding” similar to Lambton-Kent-Middlesex and has approximately 25 years experience as an M.P.P.

**Evidence of Robert Runciman, January 10, 2006, at pp. 92-94**

61) Runciman provided evidence that he did not see anything wrong with an M.P.P. relaying the concerns of constituents to O.P.P. sergeants or local inspectors in a situation that the constituents of the riding perceive to be a crisis situation. He went on further to suggest that so long as the M.P.P. is not instructing the local detachment on what to do, then it is appropriate for an M.P.P. to provide the O.P.P. with information or concerns that are being conveyed by constituents.

**Evidence of Robert Runciman, January 10, 2006, at pp. 95-97**

62) Runciman also provided evidence regarding the impropriety of an M.P.P. simply taking no action, or “playing possum”, when there is a crisis situation in his or her riding.

**Q: Okay. And in the situation where there is a crisis in – in say your riding, isn’t the alternative between communicating with local law enforcement officers, communicating with higher ups at Queens Park, simply taking no action or disappearing, and isn’t that inappropriate; given your sworn duty to represent your constituents?**

**A: Well I suppose that would have been an extreme alternative. I mean, I guess there could be varying degrees of action and involvement.**

**Q: But, taking no action would be inappropriate, correct?**

**A: I would think so.**

**Evidence of Robert Runciman, January 10, 2006, at p. 97**

63) Elaine Todres (hereinafter “Todres”), Deputy Minister of the Solicitor General in 1995, provided evidence that part of the role of an M.P.P. was to be intimately involved on the ground with situations that developed within his or her riding.

**Q: Right. And were you aware of communications to Members of Cabinet by Marcel Beaubien, the MPP, concerning the situation at Ipperwash during the summer of 1995?**

**A: I don’t recall specifically being aware of letters that he wrote, but I was aware that he was – that he as a definition of being a constituency representative required him to be intimately involved on the ground (sic).**

**Evidence of Elaine Todres, November 30, 2005, at p. 9**

64) Todres also commented on the pressures faced by a back bench M.P.P., such as Beaubien.

**“I – I am sensitive to the pressures that are placed on a backbencher. A backbencher does not have a Cabinet portfolio to be concerned with. He or she does not have to be prepared for Question Period. Her or she is solely devoted to meeting the needs of the constituency.”**

**Evidence of Elaine Todres, December 1, 2005, at p. 100**

## **G. BEAUBIEN'S SPECIFIC INVOLVEMENT**

### **Early Signs of Trouble After the Election**

65) Shortly after his election on June 26, 1995, Beaubien was contacted by some constituents with regard to their concerns in the Ipperwash Beach area. The tenor of the concerns was two-fold. First, they expressed their concerns about the West Ipperwash Beach litigation. Second, they expressed concern about the safety of their person and property.

**Evidence of Marcel Beaubien, January 18, 2006, at pp. 273, 283-285**

66) The reason for expressing their concerns to the local Provincial Member of Parliament is that both of these issues had Provincial content. The Province had, through its constitutional powers regarding property and land titles, provided the title to the West Ipperwash landowners without encumbrance, reservation or cloud on title. The litigation challenged their title and in the view of the constituents it affected their land value, their ability to mortgage the property, their ability to sell the property and generally was creating legal costs for them. Accordingly, they looked to the Province for assistance.

**Evidence of Marcel Beaubien, January 18, 2006, at pp. 279-281, 287-289**

67) The constituents also complained to Beaubien about their fears, and their belief that they were being intimidated, threatened and harassed. They communicated to Beaubien their belief that it was occupiers of CFB Ipperwash that were the source of these incidents, and although the Base was under Federal government jurisdiction they looked to the O.P.P. to protect them. As such, they communicated to Beaubien that they did not feel that the O.P.P. was providing sufficient policing.

**Evidence of Marcel Beaubien, January 18, 2006, at pp. 273, 284**

68) Beaubien's role as M.P.P. was to listen to the concerns of his constituents, obtain what information he could to test the accuracy of those concerns and allay those concerns as well as he could within his mandate as M.P.P.

69) When Beaubien heard complaints about native issues, he contacted and met with elders of the Kettle and Stoney Point Band who he knew and respected, namely Robert “Knobby” George, and former Chief Charlie Shawkence. Throughout the summer of 1995 and up to September 6, 1995 he also attempted to communicate with Chief Bressette. He learned of the internal Band conflicts and the views of the Band officials regarding the occupiers both through his conversations with these individuals and through the Letters to the Editor of the Forest Standard composed by Band Councillor Gerald George.

**Evidence of Marcel Beaubien, January 19, 2006, at pp. 39-40, 298-299**

**Evidence of Marcel Beaubien, January 24, 2006, at pp. 84, 103-105**

**Evidence of Marcel Beaubien, January 25, 2006, at pp. 272-273**

**Evidence of Tom Bressette, March 2, 2005, at pp. 87-88, 95-96, 242-243**

**Meetings With O.P.P. and Correspondence**  
**By Beaubien During the Summer of 1995**

70) In the summer of 1995, Beaubien wrote to Provincial Ministries and also met with O.P.P. officers in his role as M.P.P. representing the constituents of the Lambton-Kent-Middlesex riding. In each of his meetings and communications, he properly performed his role as M.P.P.

71) In response to the concerns of his constituents regarding the West Ipperwash Beach litigation he wrote the new Attorney General Harnick, in his dual role as chief legal officer of the Province and as the Minister in charge of Native Affairs. He wrote to Harnick to raise his awareness of the issue.

72) Writing letters to Ministers of the Crown as an M.P.P., on behalf of his constituents, was exactly what Beaubien was supposed to do.

73) In response to the concerns of the constituents about their safety, Beaubien again properly represented the interests of his constituents by contacting and then meeting with ranking O.P.P. officers on August 11, 1995.

74) If his understanding of jurisdictional matters was not as sophisticated as one trained in the law, or if his use of English as his second language was less precise than one whose first language is English, then one might criticize him for some of the wording in his July 31, 1995 and August 14, 1995 letters. Similarly, one might



choose to criticize him for his use of the word “totally” in the September 6, 1995 fax that he sent to King. However, in consideration of the mandate of the Commission in this Inquiry, all of Beaubien’s correspondence between July and September 6, 1995 is immaterial to the examination of the death of Dudley George. None of the Ministers of the Crown, including the Premier, ever saw any of these letters prior to September 6, 1995.

75) Beaubien did have discussions with Wade Lacroix (hereinafter “Lacroix”) throughout the summer of 1995 and in the days just prior to September 6, 1995. However, it is clear from the testimony of Lacroix that these discussions were appropriate and had no impact on his actions or decisions.

**Q: And what, if anything, did you take from what you were told by Mr. Beaubien on September the 5<sup>th</sup> that the Premier was interested in this matter?**

**A: I really didn’t take that much from it at all, sir, just I would expect him to be interested in any kind of event going on in the Province.**

**Q: And as a police officer, what did that – what did it mean to you, if anything?**

**A: As – as a line police officer, it didn’t mean a thing to me.**

**Q: And why is that?**

**A: Because we don’t take direction from politicians.**

**Evidence of Wade Lacroix, May 9, 2006, at p. 103**

**Q: Yeah. And it wouldn’t come as any surprise to you that the Premier’s Office would be interested in the takeover of a Provincial Park and would want to be briefed on it.**

**A: I’m sure it would be an issue of the day.**

**Q: Right. So none of this – if – if this information came from Mr. Beaubien, it didn’t come as any startling revelation to you.**

**A: No. No, I didn’t take it that way.**

**Evidence of Wade Lacroix, May 9, 2006, at pp. 152-153**

**Q: And while you didn’t tell Mr. Beaubien anything confidential, the purpose in your conversations with him was really so – to inform him so he could handle calls he got from his constituents.**

**A: That was why – I figured I was giving him some information that when whoever it was were calling him, he could say, Look, the police are taking it seriously and this is – there is additional resources in the area and there was no need to panic and you know. So he could help us put down fear.**

**Evidence of Wade Lacroix, May 9, 2006, at p. 155-156**

76) If his letter of August 14, 1995 summarized his views of the meeting on August 11, 1995, then it has no relevance to decisions made by the O.P.P. in that they were not copied on the letter, the Solicitor General did not receive it until after September 6, 1995 and the O.P.P. was not even aware of that letter by September 6, 1995.

77) Hodgson provided his view about the propriety of Beaubien meeting with O.P.P. officers.

**Q: Now, given your understanding as you've testified to and as I quoted from earlier transcripts to you a few moments ago of the required separation between police and politicians, in your understanding does this go over that line?**

**A: I don't know if there was – there's an assumption that I'm making, I don't know if it's correct, that the local MPP would have been invited by the – those individuals to that meeting.**

**Q: I see. And in your view whether or not a politician is stepping over a line depends upon who initiates the invitation to some extent, sir, or is it entirely independent of that?**

**A: No, I think it's – just speaking personally if I was invited to a meeting by the OPP I would assume that the OPP are following the proper protocols.**

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**Q: I see. So, whatever interchange Mr. Beaubien may have had with police officers, as long as the police officers invited those interchanges it's not crossing the line; is that your evidence, sir?**

**A: No, the preamble I probably wouldn't agree with, but if you're invited by the OPP—**

**Q: Yes.**

**A: --to a meeting I probably would have attended.**

**Evidence of Christopher Hodgson, January 17, 2006, at pp. 168-170**

78) Multiple witnesses, including the current Commissioner of the O.P.P., Gwen Boniface and the former Commissioner, Thomas O'Grady, gave evidence about the importance of communication between the O.P.P. and local elected officials, particularly in rural areas.

**Q:** And where there's all around community interest in an incident, it's not at all unusual for community leaders to speak to you, and you speak to them, correct?

**A:** That's fair yes.

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**Q:** Okay. So it's not unusual, or it wasn't unusual at that time for you to hear from the elected representatives on the occupation of the Army Base, was it?

**A:** It was brought to my attention regularly.

**Q:** I would think so. And when the occupation of the Army Base extended to the Ipperwash Provincial Park, the same would apply, that it wouldn't be unusual for you to hear from elected representatives of the local stakeholders?

**A:** Very much so.

**Evidence of John Carson, June 2, 2005, at pp. 118-119**

**Q:** Okay. And you saw nothing wrong or improper in the meeting with Mayor Thomas on September 6<sup>th</sup>, I take it?

**A:** I saw nothing inappropriate whatsoever.

**Q:** In fact, would – would it be fair to characterize it as a very important informational meeting?

**A:** From a public perspective, I think it's essential, quite frankly.

**Evidence of John Carson, June 2, 2005, at p. 124**

**Q:** Right. And maybe to sum it up, it's – I trust that when Mayor Fred Thomas, Chief Tom Bressette, Marcel Beaubien, other elected officials pass information along to you about concerns of their constituents, the cottagers, who are close in proximity to Ipperwash beach, it's really just a more efficient means for you to get information than if you had to hear from each individual cottager, community member, and citizen?

**A:** Well, it – it is that, but it's also a – a valuable component that allows the – the police to evaluate the information that we may have from other sources,

and it may validate or support other concerns that we are aware of, or it may bring to our attention something that we are totally not aware of.

Evidence of John Carson, June 2, 2005, at pp. 129-130

**Q:** Finally, if an officer or inspector or incident commander found himself or herself in a similar situation of all round community interest such as you faced in those days in early September 1995, would you recommend that he or she be free to communicate with political representatives, be they from a native band, civic officials, provincial elected officials or Federal elected officials?

**A:** I think there needs to be a means to have access to whatever information is available from whatever source it is available.

Evidence of John Carson, June 2, 2005, at p. 144

**Q:** In your experience, an MPP speaking with local OPP officers was, in fact, also a normal situation?

**A:** Particularly in smaller communities where people see each other every day, all the time.

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**Q:** Good. Thank you, sir. But you did become aware at some point Mr. Beaubien was communicating with the OPP in some fashion in Ipperwash? In – I'm sorry –

**A:** Yeah. Well I believe he had mentioned to me that he was visiting – I don't know if there was a command headquarters or post, if it was a building, what it was, but there was sort of a place, and he told me that he had been there.

**Q:** And from speaking to Mr. Beaubien, it was your understanding that this communication was taking place in the context of a number of local officials including Mr. Beaubien, searching for information and answers about what's going on.

**A:** On behalf of their constituents.

**Q:** Absolutely.

**A:** Yes.

**Q:** Is that your understanding, sir?

**A:** Yes.

**Q:** Okay. And again in your experience that wouldn't be unusual for a local MPP or a local elected official?

**A:** No, I've – I've seen it. That's the way it is; that's the way you represent your constituents when there's a big issue in your community.

**Q:** And to do otherwise you'd be surprised?

**A:** I would be very surprised.

Evidence of Bill King, November 16, 2005, at p. 219

**Q:** And you recall saying that you expect your detachment commanders and regional commanders to be discussing policing and social issues with mayors, reeves, MP's, MPP's as part of that OPP's focus at the time on community policing, which was to keep representatives of the people advised and that doing so would be in the normal course of business for the OPP. Do you recall saying that yesterday?

**A:** I recall that and I agree with it now.

Evidence of Thomas O'Grady, August 23, 2005, at p. 127

**Q:** And in doing so, the Detachment Commanders at the various Detachments throughout small rural towns such as Forest or Petrolia, say, had as part of their role the responsibility to communicate with local elected officials such as local mayors, MPP's, MP's and local First Nations Band Chiefs; is that correct?

**A:** That would be correct. Still is.

**Q:** And for instance, to give it some more context, if there was an incident of some general or all around community interest in a particular rural community, it would not be at all unusual for a Detachment Commander to speak to the local elected officials about the particular incident?

**A:** That's correct.

-----  
**Q:** Yes. And you've told the Inquiry about various changes to OPP policy and procedure following the Ipperwash incident. Would you agree that communication between, for example, detachment commanders in the – the community where an incident might be occurring with local elected officials is still important?

**A:** Yes. And I think you have to keep in mind that in locations in the OPP, probably a hundred locations they have a Police Service Board as well so there's a – a conduit there as well.

**Q:** And I take it that you wouldn't be in favour – for example one (1) of your recommendations wasn't that that type of communication be prohibited? I – I understand you take some issue about the location of the communication and the timing perhaps of the communication?

**A:** I think it's important when – as detachment commanders to have contacts or contacts within the community including the local MPP and the MP.

Evidence of Gwen Boniface, June 14, 2006, at pp. 197-201

**Faxes Sent to King**  
**On September 5<sup>th</sup> and 6<sup>th</sup>**

79) In the summer of 1995, the protocol for caucus members to communicate with the Premier was to contact King, who was the Premier's Executive Assistant in charge of Caucus Liaison. Beaubien followed that procedure or protocol in all of his communications in the summer of 1995 up to and including September 6, 1995.

Evidence of Bill King, November 16, 2005, at pp. 213-217

80) Aside from King, Beaubien had no communication with anyone in the Premier's office during September 4 through 6, 1995, inclusive.

**“Lots of members have sent correspondence to other ministers without my knowledge, and that's fine, or maybe the Premier's office and somebody forgot to send it to me. But as best to my knowledge, about Ipperwash, everything Marcel communicated came through my office.”**

Evidence of Bill King, November 16, 2005, at pp. 176, 213-217

81) On September 5, 1995, Beaubien sent King a *draft* press release, which he told King he was going to send if he did not hear from King by 3:00 p.m. on September 5, 1995.

**Exhibit P-953 (Inquiry Document No. 1006195)**  
**Fax from Marcel Beaubien to Bill King dated September 5, 1995**

82) It was Beaubien's evidence that he prepared the draft press release to issue an "ultimatum to somebody in the Premier's office that they may not like it." The draft was intentionally controversial, using a similar theme as that used by Gerald George in his Letter to the Editor of the Forest Standard. This was done in order to get King's attention. Beaubien was frustrated at getting no information from Queen's Park and he used a draft press release to get King to call him and provide him with some information as to what, if anything, the Government was doing in relation to what Beaubien regarded as a crisis in his riding.

**Evidence of Marcel Beaubien, January 19, 2006, at pp. 108-114**

83) King reacted as Beaubien had hoped and informed him that the Premier was aware of the situation and was concerned, and further informed Beaubien that the Government would be seeking an injunction to end the occupation of the Provincial Park. Accordingly, the press release was never issued. King described the press release issue in his testimony of November 16, 2005.

**Q: Exactly. This press release was never issued?**

**A: Was never issued. And again I attributed that to the fact that he's a new member, he's never been in a situation like this, his phone's ringing off from his constituents saying, Tell us something, do something. And he puts this out as an option and did absolutely the right thing. He brought it to the attention of somebody whose been through it before to say what do you think and – and took the advice.**

**Evidence of Bill King, November 16, 2005, at pp. 229-230**

84) The press release in the draft form that was sent by Beaubien to King, or in any other form whatsoever, was never issued. While there may be some interest in the existence of the fax and draft press release, it is really nothing more than a fool's errand to pursue this issue. The fact is that it had no causal connection to the death of Dudley George or the violence at the sandy parking lot at Ipperwash Provincial Park, as no one in the Provincial Government, other than Bill King, saw it prior to September 7, 1995. The O.P.P. did not see it, nor did the press, or, by extension, the public either. It was simply a private communication device sent between two persons. It was sent by one person who was frustrated with the lack of information he was receiving in order to prompt the other person to provide him with some information, albeit limited information. It is submitted that its existence and content is irrelevant to the mandate of this Inquiry.

85) The fax of September 6, 1995, from Beaubien to King, which attaches a letter from a constituent, was read by King and King gave his interpretation of the letter.

**Exhibit P-952 (Inquiry Document No. 1006196)  
Letter from Marcel Beaubien to Bill King dated September 6, 1995**

**Q: Yes. So, there's no doubt, is there sir, that when Mr. Beaubien refers in the previous page to "agreeing with my suggestions of yesterday" that that included some notion of immediate arrest. Isn't that fair?**

**A: I don't think I would have interpreted his comment to me exactly that way. What I got from that letter, what I get from Marcel, and what I got from the government was more a sense of acting, or having a resolution quickly.**

**And so it was all about timing, not how. Clearly the Government's position was that they owned the Park; it was a trespass; they were going to Court to get some legal authority to evict them.**

**So, in a sense that's pretty well, maybe, what the constituent was saying as well. Nobody really said how you do that. The Government chose an option as – eventually as to how they were going to do that.**

**But, what I take from all these things was, let's act quickly to resolve it. And that – that's what I think is the consistent theme between Marcel and what he was hearing from his constituents, including this one, and also what I understood the Government's position**

**Evidence of Bill King, November 17, 2006, at pp. 47-48**

86) The way the Government decided it would act quickly was to follow the proper legal procedures by seeking an injunction.

87) However, regardless of what the constituent's letter contained and whether Beaubien agreed with every word in the letter or simply agreed with it in an overall sense is only of any meaning in the context of this Inquiry if the letter had some causal connection to the death of Dudley George and the violence in September of 1995.

88) But there can be no causal connection because King read it and simply filed it. He did not pass it on to anyone else in the Premier's Office. He did not pass it on to any Cabinet Minister. He did not give it to the Premier. He did not pass it on to anyone who was in a decision-making role prior to the death of Dudley George.



**Evidence of Bill King, November 16, 2005, at p. 178, 233**

89) King testified that he saw no particular significance to the fax of September 6, 1995 being sent to him by Beaubien as in his experience as both an executive assistant and as a local riding assistant, this was very commonplace for a local member to send along letters from constituents with comment. King employed standard protocol and filed it without passing it on.

**Evidence of Bill King, November 17, 2005, at pp. 55-65, 178**

90) King also made a salient point in relation to the letter from the “respectful, responsible, tax paying, law abiding lawyer” in Beaubien’s riding, and that is that the letter was copied by the lawyer to Messrs Harnick, Runciman and Harris and was only forwarded by Beaubien for King’s information. So, if the letter were to have any effect on the decision-making by the Ministries, then that would be the lawyer’s doing and not that of Beaubien. However, none of those copied on that letter or their Deputy Ministers indicated that they had seen it prior to the decision being reached around the noon hour on September 6, 1995, which was to proceed to seek an injunction. As a result, that letter and the covering page from Beaubien have no causal connection whatsoever with what occurred later in the evening of September 6, 1995.

**Meeting at Forest Detachment**  
**September 6, 1995 at 6:42 p.m.**

91) The evidence of Beaubien is that he was invited to the Forest Detachment and arrived there at approximately 6:30 p.m. on September 6, 1995, for a briefing. And while Carson cannot recall whether Beaubien was invited, Beaubien’s recollection of how the meeting was initiated is consistent with the fact that two other elected community leaders, namely Chief Bressette and Mayor Fred Thomas had previously attended the same location that day and had also been briefed. The evidence from Carson was that Beaubien was at the Forest Detachment and “he was certainly invited in”.

**Evidence of Marcel Beaubien, January 19, 2006, at pp. 85-86’**  
**Evidence of John Carson, June 2, 2005, at p. 125**

92) It may be that the meeting between Beaubien and Carson has had greater focus because the meeting occurred later in the day of September 6, 1995, than the meetings with other elected officials. But as Carson said of the meeting “..it was the same information that we had discussed with Mr. Thomas...”

**Evidence of John Carson, June 2, 2005, at p. 138**

93) There have been suggestions that it was improper for Beaubien to attend the O.P.P. Command Centre in Forest, and that the impropriety was on Beaubien’s part.

94) First, his visit was consistent with that of other local elected officials that very same day.

95) Second, it was the O.P.P. that controlled the location of the Command Centre and the entry into that Command Centre is also controlled by the O.P.P. Former Commissioner of the O.P.P. Thomas O’Grady (hereinafter “O’Grady”) confirmed this in his testimony on August 23, 2005. Carson emphatically testified that Beaubien did not force his way into the Command Centre. He was brought in by the O.P.P., in a manner no different than others were brought in earlier in the day, including Mayor of Bosanquet Fred Thomas (hereinafter “Thomas”, Chief Bressette, and M.N.R. employee Les Kobayashi (hereinafter “Kobayashi”).

**Q: And that distinction of whether they meet, generally, in a building on site or a command centre that happens to be located on the same site is, I suggest to you probably more significance to the officer making the decision that it is to an invitee?**

**A: It’s – it’s just that it seems to me that it’s fraught with difficulties with respect to the incident commander in making decisions, and that he needs his whole attention on what he’s doing at that particular point and doesn’t need any extraneous activity.**

**Q: Sure. And the incident commander would understand that better than someone who’s invited to the site?**

**A: Oh, absolutely.**

**Evidence of Thomas O’Grady**

**Q: Okay. He didn’t force his way into the meeting?**

- A:** Oh no, oh no. No, no.
- Q:** Okay. And you were content to meet with him?
- A:** Oh, yes.
- Q:** Yeah. He wasn't forcing anything on you?
- A:** No, no. He appeared at the Forest Detachment and it was brought to my attention he was there and he was certainly invited in.
- Q:** Okay. And these weren't meetings where he would attempt to give you instructions of any kind of police operations?
- A:** He never attempted to do that, no.

**Evidence of John Carson June 2, 2005, at p. 125**

- 96) Third, the Command Centre was not near the occupied Provincial Park. It was miles away in Forest and it was simply a room, in the form of a trailer, which was annexed to a small rural O.P.P. detachment.
- 97) Finally, if there was any impropriety in having a meeting in the Command Centre, which this party is not suggesting, then that impropriety rests with the O.P.P. incident commander. However, the simple reality is that when Kobayashi and Beaubien met with Carson for about twenty-five (25) minutes on September 6, 1995, at approximately 6:30 p.m., all was quiet on the scene and Carson was getting ready to go off duty for a dinner at a private residence. It was not a situation where Carson was in the heat of action receiving calls and giving commands.
- 98) A great deal of the Commission's time was spent on speculation regarding the propriety of meeting in the Command Centre. However, it is submitted that the location, in the context of the meeting in question, is totally irrelevant. In different circumstances, such as during an actual confrontation at the actual scene of an actual occupation or blockade, it may well be inappropriate to have a meeting between police officers and elected officials. But that is not the case here.
- 99) The greater irony is that by the time Beaubien and Kobayashi met with Carson on September 6, 1995, Carson had already spoken with Ron Fox (hereinafter "Fox"), who provided Carson with far greater detail about what was going on at Queen's Park than Beaubien did. It is clear from the evidence that Fox knew far more about the decisions that were being made at Queen's Park than Beaubien, who

was not even aware that the meeting in the Premier's dining room had taken place.

**Beaubien Not Instructing or Attempting to Influence O.P.P.**

100) The clear and unequivocal evidence of Carson was that at no time did Beaubien attempt to give him instructions or advocate that the O.P.P. take any particular actions.

**“So quite frankly, Mr. Millar, I have great difficulty with the insinuation that I took any political direction from anyone.”**

**Evidence of John Carson, May 31, 2005, at pp. 175-176**

**Q: Okay. Now at this meeting, did Mr. Beaubien advocate that you use force to remove the natives from the Park later that evening?**

**A: Absolutely not.**

**Q: And he tell you he was passing on instructions from the Premier of Ontario, Mr. Harris, on how to conduct police operations at Ipperwash Provincial Park or anywhere in this area?**

**A: Absolutely not.**

**Q: In fact, it – isn't it true that Mr. Beaubien did not advocate any position for the OPP to take in relation to police operations at the Park?**

**A: Correct.**

**Q: And did you take any actions, or instruct anyone to take any action, on the evening of September 6<sup>th</sup> as a result of this meeting with Mr. Beaubien?**

**A: No, sir.**

**Q: Was there anything that Mr. Beaubien said or did at that meeting that caused the OPP to call out the TRU team that evening?**

**A: None whatsoever.**

**Evidence of John Carson, June 2, 2005, at pp. 141-142**

**Q: Yes, and you sensed that he wanted you to take immediate action, right?**

**A: He never, ever indicated that I should do anything in particular.**

**Evidence of John Carson, June 20, 2005, at p. 36**

101) The purpose of the August 11, 1995, meeting between Carson, Lacroix, Parkin, Linton and Beaubien was so Beaubien could express to the O.P.P. the concerns he was hearing from certain constituents and so that the O.P.P. could explain in a general way the steps they were taking in furtherance of public safety and order so that Beaubien could then respond to the comments and questions he was receiving from constituents.

**Q: Okay. And there, sir, I – again I take it are in the nature of liaison and public informational meetings?**

**A: Yes. There had been a number of issues raised in the community and it was just an opportunity to reassure Mr. Beaubien so that he understood the steps that we were taking to deal with a number of these issues so that he could respond to the queries that he was getting.**

**Q: Okay. And these weren't meetings where he would attempt to give you instructions of any kind of police operations?**

**A: He never attempted to do that, no.**

**Evidence of John Carson, June 2, 2005, at pp. 126-127**

102) Various other ranked O.P.P. officers gave similar evidence with respect to their interaction with Beaubien.

**Q: But – okay. And in these two (2) conversations you had with Mr. Beaubien on September 5<sup>th</sup>, did you form the impression that Mr. Beaubien was trying to intimidate you into taking any specific action by advising you that he called the Premier's Office?**

**A: No. I got more of a – of a little bit – I got it that he was more – he was more exasperated, you know, by phone calls he's receiving, not – not you know, demanding us to do anything. I think he was looking for a little bit of information.**

**Q: From Toronto?**

**A: No, I think for the constituents.**

**Q: Oh, okay. And did you form the impression that he was using his position as the MPP to somehow influence you to do something as an OPP officer that you might not otherwise have done?**

- A:** Not at all.
- Q:** Okay.
- Q:** Just to be very specific, I take it that Mr. Beaubien didn't ask you to do – he didn't demand any information from you at any point in time?
- A:** No, sir. No.
- Q:** And he wasn't being belligerent or bullying or intimidating with you?
- A:** No, actually he was being fairly friendly. Like he was just what – more of a what do you know, what's – he knew about the occupation and it was like, you know, What can you give me.

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- Q:** Okay. And he didn't give you any impression, through his conversations with you, that he wanted you to do anything in particular, it was just that he was getting calls and he wanted to be able to respond, correct?
- A:** Yeah. He was looking for some information about what the police response would be.
- Q:** Right. And throughout, he was supportive of the OPP?
- A:** Yes. I think at one point he told me that I – once I told him that we had, you know, up to sixty (60) ERT officers already in the area and additionally complement, he was very – very complimentary. He was, Good, that's good to hear.
- Q:** Okay. Finally, on this topic, I just want your view – just to – looking back, did you do anything different in the days through September 4<sup>th</sup> to September 7<sup>th</sup>, 1995 in your policing duties, as a result of speaking to Mr. Beaubien?
- A:** None whatsoever.

Evidence of Wade Lacroix, May 9, 2006, at pp. 156-158

- Q:** Okay. And can you confirm for me then, that in that conversation, you don't recall Mr. Beaubien advocating any position, strong or otherwise, with regard to how the OPP would operate in this crisis?
- A:** No, sir. My recollection of my – of my – of a telephone conversation was basically that Mr. Beaubien was expressing that he did have concerns that constituents were calling him and raising concerns. And as far as the – my duties, I would relate to him that I felt that we were acting in an

appropriate manner and had the resources required. And that's basically where I – what -- how I recollect the conversation.

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Q: That's what I want to know. In particular with regard to Marcel Beaubien and so can you just confirm for me that he didn't attempt to instruct you with regard to OPP operations whatsoever at the Ipperwash Park occupation.

A: To the best of my recollection, no, sir, he did not.

Evidence of Christopher Coles, August 17, 2005, at pp. 15-16

Q: And my question to you had been that Mr. Beaubien or the suggestion I put to you was that Mr. Beaubien didn't express any personal concerns about the OPP policing in the area, rather he was expressing the concerns, frustrations of the cottagers. And isn't that exactly what you said on August 14<sup>th</sup> to Nancy Mansell and Ron Fox in your e-mail?

A: Yes, sir.

Q: Okay. And that's what – that's what I wanted to understand. Okay? And he didn't, that is Mr. Beaubien at that meeting didn't tell you, Lacroix, Linton, or Carson how to carry out your sworn duties did he?

A: No, sir.

Q: And you didn't get the impression and he didn't tell you directly that you – let's – let's go to impressions. He didn't give you the impression that he was attempting to influence you, Carson, Lacroix, or Linton how to do your sworn duties at that meeting either did he?

A: No, sir.

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Q: Right. And when you – you left that meeting of August 11<sup>th</sup> you weren't looking for any direction from Queen's Park in any event?

A: None at all, sir.

Q: Right. Now, at this August 11<sup>th</sup> meeting I take it that the OPP present, the senior officers that were there and the – and the Staff Sergeant and Mr. Beaubien had no discussion whatsoever on tactics or strategy that the OPP would or should employ if the Army Base expansion or occupation expanded to the Provincial Park?

A: Absolutely not.

**Q: And Mr. Beaubien certainly gave you no instructions from the Provincial Government on August 11<sup>th</sup> on how the OPP should carry out its activities did he?**

**A: No, sir.**

**Q: And you had no further meetings with Mr. Beaubien or any communications with Mr. Beaubien between the August 11<sup>th</sup> meeting and September 6<sup>th</sup>, 1995?**

**A: Not that I recall, sir.**

**Evidence of Anthony Parkin, February 7, 2006, at p. 336-340**

103) In addition to the oral testimony given at this Inquiry, there are several other key pieces of documentary evidence made contemporaneously with the events in 1995 that clearly indicate that Beaubien was working cooperatively with the O.P.P. rather than attempting to dictate or direct their actions.

104) The handwritten notes of Carson indicate that Lacroix had met with Beaubien on July 31, 1995 and Beaubien was supportive of the actions of the O.P.P.

**Exhibit P-410**

**Handwritten Notes of John Carson, at 10:21, page 15**

105) When Fox testified on July 14, 2005, he indicated that he was not aware of any displeasure with the O.P.P. coming from Beaubien in the time period leading up to September 6, 1995.

**Q: So, the Commissioner of the Ontario Provincial Police was going to get some pressure, and who did you understand Chief Coles was referring to as the source of the pressure?**

**A: I don't know that he was referring to any source of pressure, other than to say there had been an awful lot of correspondence generated either directly to the OPP, or through the Ministry, requiring an OPP response that indicated displeasure with the situation on the part of – of a number of people in the Forest area.**

**Q: And in terms of the manner in which this information came to the attention of the OPP, it's fair to say that, for example, this displeasure came from, in part, the local MLA, Marcel Beaubien?**

**A: I – I have no knowledge that it came from Marcel Beaubien.**



**Evidence of Ron Fox, July 14, 2005, at pp. 126-127**

106) There was also evidence of an August 29, 1995 handwritten note by David Carson, of ONAS, which corroborates Beaubien's evidence that his actions in the summer of 1995 and up to September 6, 1995 were in furtherance of the views and concerns of his constituents and were not reflective of his personal views or interests.

**"Since July 31<sup>st</sup> Beaubien has met with Superintendent Parkin and Inspector Carson to discuss policing matters generally. Met on August 18<sup>th</sup>.**

**B says his July 31<sup>st</sup> letter sets out residents' concerns and not his personal views, residents sorry for police, who they perceive have their hands tied."**

**Exhibit P-508 (Inquiry Document No. 1003740)  
Handwritten note of Dave Carson dated August 29, 1995**

107) The handwritten notes of Anthony Parkin (hereinafter "Parkin"), also indicate that while Beaubien was concerned about the Park and cottage owners and the fact that they may do something, the caveat was that Beaubien had not complaints about policing or the O.P.P.

**Exhibit P-499 (Inquiry Document No. 2003790)  
Handwritten notes of Anthony Parkin, page 14 of 99, at 10:00 hours**

108) Further documentary evidence, in the form of an e-mail from Parkin to Nancy Mansell, also supports the argument that Beaubien was neither attempting to direct the O.P.P., nor hostile towards the O.P.P.

**"I met with the local MPP, Marcel Beaubien who is satisfied with the actions of the OPP and what we are doing. His concern was more about the frustration of the cottagers and what they might do."**

**Exhibit P-591 (Inquiry Document No. 2000982)  
E-mail from Anthony Parkin to Nancy Mansell dated August 14, 1995**

109) Chief Superintendent Christopher Coles gave clear evidence that he never felt threatened by any of the elected officials that he met with in relation to the Ipperwash issue.

- Q:** And before that meeting, you had spoken to Marcel Beaubien, the local MPP?
- A:** I think my evidence is it's somewhere in and around there that I think I had yes.
- Q:** And you'd spoken to other local politicians in and around that time?
- A:** Mr. Fred Thomas and subsequently, Ms. Rosemarie Ur.
- Q:** And you were aware of the – I'd characterize them as strong opinions being pronounced by these politicians at that time?
- A:** No, not strong. My recollection and memory of the interaction that I had with Mr. Beaubien, Ms. Ur, or Fred Thomas was that they were merely seeking information in order that they could best answer their constituents' concern and – and, no, they were gracious to me as far as I – *I never felt any threat from any one (1) of them.*

And I think that's one (1) of the reasons why I also chose post-shooting to make sure that I did keep them in the loop because I did appreciate that they were, in fact, responsible for that area and they did have a need to know information as best I could give it to them and they treated me – they had treated me in a manner that deserved that I – I keep them in the loop.

**Evidence of Christopher Coles, August 17, 2005, at pp. 229-230**

- 110) The documentary evidence surrounding the communications between Lacroix and Beaubien is also indicative of the fact that Beaubien was not upset with the O.P.P. in any way. In particular, the preface or backdrop to the conversation between Lacroix and Beaubien on the morning of September 5<sup>th</sup> is that Beaubien's concern or displeasure is not with the O.P.P. but rather the deterioration of the situation.

**“Ah, I just received a phone call from the MPP, quite irate, *not at us.*”**

**Exhibit P-444A**

**Telephone Call Between Wade Lacroix and John Carson dated September 5, 2005, at 10:20**

- 111) Under cross-examination concerning the meeting at the Forest Detachment on the evening of September 6, 1995, Carson described Beaubien as “supportive” of the course of action of the O.P.P.

- Q:** But you sensed from everything he did do, that that was his view did you not?

**A: He was working with his colleagues on that, and I explained to him how we were moving towards the injunction, and he seemed supportive of that.**

**Evidence of John Carson, June 20, 2005, at pp. 36-37**

112) If there is any remaining thought that Beaubien attempted, in any way, to influence the O.P.P., through the Incident Commander, to take any particular action, then one needs only to read Carson's responses to such suggestions on June 2, 2005.

**Q: Okay. And then the scribe notes right in that area -- same paragraph go on to say: "John Carson states that we want it resolved, but we don't want anyone to get hurt." Do you see that?**

**A: Yes, I certainly emphasized that**

**Q: And -- and Mr. Beaubien concurred in this desire, correct?**

**A: Oh, yes.**

**Q: Okay. Now at this meeting, did Mr. Beaubien advocate that you use force to remove the natives from the Park later that evening?**

**A: Absolutely not.**

**Q: And did he tell you he was passing on instructions from the Premier of Ontario, Mr. Harris, on how to conduct police operations at Ipperwash Provincial Park or anywhere in this area?**

**A: Absolutely not.**

**Q: In fact, it -- isn't it true that Mr. Beaubien did not advocate any position for the OPP to take in relation to police operations at the Park?**

**A: Correct.**

**Q: And did you take any actions, or instruct anyone to take any action, on the evening of September 6th as a result of this meeting with Mr. Beaubien?**

**A: No, sir.**

**Q: Was there anything that Mr. Beaubien said or did at that meeting that caused the OPP to call out the TRU team that evening?**

**A: None whatsoever.**

**Q: Okay. And was there anything that Mr. Beaubien said or did at the meeting that instructed or directed you, on behalf the government of Ontario, to engage in a confrontation with the occupiers or use firearms?**

- A:** No, sir.
- Q:** Thank you. And had he given any such instructions or direction with regard to police operations, what would your duty have been, as a sworn officer of the OPP, with regard to such instructions?
- A:** In no uncertain terms, I would not have accepted any instruction from Mr. Beaubien or any other elected official in relation to my responsibility as a police officer.
- Q:** Thank you, sir. And, in fact, you didn't accept any such instructions or directions; correct?
- A:** I did not.
- Q:** In September, was there any regulation, OPP policy or standing order that would prevent you from meeting with elected local representatives, such as Mr. Beaubien?
- A:** No, sir.
- Q:** And as I asked you with regard to your meeting with Mayor Thomas, I'll ask you the same question again. Did you see anything improper in meeting with Marcel Beaubien on -- in Forest at the command post on September 6th, 1995?
- A:** I did not.
- Q:** Finally, if an officer or inspector or incident commander found himself or herself in a similar situation of all round community interest such as you faced in those days in early September 1995, would you recommend that he or she be free to communicate with political representatives, be they from a native band, civic officials, provincial elected officials or Federal elected officials?
- A:** I think there needs to be a means to have access to whatever information is available from whatever source it is available.
- Q:** Okay. And would you recommend that not only should he or she not be restricted or prohibited from such discussions, but rather be encouraged to participate in such discussions or -- and liaison?
- A:** That's fair.
- Q:** I suggest that these discussions are not only far from improper but, in fact, are very important in tense situations of all round community interest, right?
- A:** Correct.

Evidence of John Carson, June 2, 2005, at pp. 141-144

## H. CONCLUSIONS

- 113) By July 1995, there was a longstanding dispute between the Federal Government and the Kettle and Stoney Point Band, and that by that time there was frustration on the part of certain Band members with regard to what they regarded as the inaction of the Federal Government.
- 114) In the summer of 1995 certain Band members and others supporters took over the built up area of CFB Ipperwash and occupied it in defiance of the Canadian Armed Forces.
- 115) The takeover and occupation of the Army Base was neither endorsed, nor supported by the Band Council and there was dissent and division between the occupiers and the Band Council.
- 116) While there was no similar longstanding dispute or any apparent dispute whatsoever with the Provincial Government, the Army Base occupiers then applied the same method of self-help in the takeover and occupation of Ipperwash Provincial Park on September 4, 1995.
- 117) In the summer of 1995 Beaubien was a newly elected backbench M.P.P.
- 118) He performed his role as M.P.P. in representing the views of his constituents, both native and non-native, who communicated their views to him, in a plain speaking, straightforward manner.
- 119) In communicating with the O.P.P. during the summer of 1995 he breached no statute, regulation, policy or guideline.
- 120) He acted quite appropriately in performing his role as M.P.P., being the pipeline for his constituents.
- 121) He did not hide from controversy, nor did he play “possum” when a problem presented itself to him.
- 122) He had no personal interest in the outcome of the takeover and occupation of Ipperwash Provincial Park, and he advocated no position for the O.P.P. to take except that requested by his constituents; to keep the peace and uphold the law.

- 123) While he was the M.P.P. for the area, he played no part in the death of Dudley George, nor in the actions of the O.P.P. on the evening of September 6, 1995.
- 124) The fact that he attended at the Forest Detachment of the O.P.P. and met with Carson in the Command Centre, as opposed to another office in the detachment building proper, had no impact on the events of the evening of September 6, 1995.
- 125) Carson was so unmoved by his conversation with Beaubien on the evening of September 6, 1995, that he went to dinner with friends believing that everything was under control.
- 126) By the time Beaubien spoke to Carson on September 6, 1995, Carson had already heard from Fox, who knew far more than Beaubien did about the meetings and discussions occurring at Queen's Park regarding the government's decision to proceed pursuant to the laws of the Province and seek an injunction through the court system.
- 127) Carson briefed Beaubien—not the reverse. And while Carson attempted to see if Beaubien had more information, it was clear that Beaubien had no information to provide to Carson that Carson did not already possess.
- 128) Beaubien, although referred to by an M.N.R. official in an Interministerial Committee meeting, did not even know that the meeting was taking place and had no input into that meeting.
- 129) Beaubien had no contact with Premier Harris, Attorney General Harnick, Minister of Natural Resources Hodgson, Solicitor General Robert Runciman, or Deb Hutton, aide to the Premier, during the time period from September 4, 1995 to September 6, 1995, inclusive.
- 130) On September 6, 1995, Beaubien did not know that a meeting had occurred in the Premier's boardroom, following the Cabinet meeting. He had no knowledge of what was said in that meeting; he had no knowledge of the language used or not used; and while he was informed that the Government had decided to seek an injunction he didn't know the decision was made in this meeting.
- 131) His only contact with Queen's Park was with King and although King assuaged Beaubien by telling him that the Premier was aware and concerned with the

situation in his riding, King did not take either Beaubien's concerns or Beaubien's faxes to the Premier, or anyone else for that matter.

- 132) King told Beaubien very little, other than that a meeting had been held and an injunction would be sought by the Ministry of Natural Resources and that as matters then stood with a takeover and occupation of a Provincial Park with no land claim filed and no negotiations, that it was, quite logically, at that point a police matter and not a native matter.
- 133) The evidence is clear that in the September 4<sup>th</sup> to 6<sup>th</sup> time period, Beaubien was frustrated that he was receiving very little information from Queen's Park and likewise believed that those he sought out were not listening to his warnings of the magnitude of the problem in his riding.
- 134) In the summer of 1995, Beaubien had no influence in the decisions made at Queen's Park regarding the Ipperwash incident.
- 135) He was merely a "constituency man", properly performing his role as M.P.P.
- 136) Beaubien was not a conduit to and from the Premier. He never spoke to the Premier. King did not pass on any correspondence from Beaubien to the Premier or from the Premier to Beaubien.
- 137) While the Premier quite rightfully was aware and closely monitoring the taking of a Provincial Park and the continued occupation of those public lands, Beaubien had no contact and no influence on the Premier's views and no input into the Government's decision-making in seeking an injunction.
- 138) Beaubien, in performing his duty to represent his constituents and make their views known, may have added to the "political pressure" felt by Carson, but no more so than the actions of Mayor Thomas. They only reflected the concerns of their constituents. But Carson already knew about these concerns from other sources, including the media, by the time he met with Mayor Thomas, Beaubien and Chief Bressette on September 6, 1995.
- 139) Not one O.P.P. officer stated that they were pressured by Beaubien to do anything at anytime. No officer stated that he advocated that the O.P.P. do anything other than enforce the law as they saw fit. No officer said that Beaubien

interfered with their work and in fact they stated that he was supportive and helpful.

140) The only officer that even suggested that Beaubien mentioned that he contacted the Premier's office, being Lacroix, emphasized in his evidence that he knew it was the Premier's Office and not the Premier. Furthermore, it did not influence Lacroix's thinking as Lacroix assumed that the local M.P.P. would be taking those steps and he assumed that the Premier would be closely following and be interested in the takeover and occupation of Provincial property.

141) It is disingenuous not to recognize that any incident that has a widespread impact on a community would cause there to be small "p" political pressure on an Incident Commander. The difference here is that a person died and thereafter all activities, which otherwise would be normal and expected, have been magnified in their retrospective examination.

## **I. RECOMMENDATIONS:**

142) Paragraph 2(b) of the Commissioner's Mandate is "to make recommendations directed to the avoidance of violence in similar circumstances."

143) While there may rarely be "similar circumstances", being the occupation of a Provincial Park by a group of natives who are not authorized or endorsed by an elected Band Council, the recent First Nations blockade of a public highway and occupation of a residential housing development at or near Caledonia, Ontario, can fairly be described as "similar circumstances" and it is submitted that in making recommendations under paragraph 2(b) of its Mandate, the Commission should take judicial notice of that event.

144) The circumstances in Caledonia arise out of frustration by certain Band members over a long-standing land claim issue. The actions of the persons occupying the public highway and private lands were not authorized or endorsed by the local Band Council. These circumstances are markedly similar to those in Ipperwash in September of 1995.

145) The lands occupied in Caledonia are owned by a private developer, which is distinguishable from Provincial Park lands. The circumstances are also distinguishable on the basis that there are no reports of gunfire in the occupied lands at Caledonia.



- 146) The O.P.P. has employed a great number of officers in Caledonia just as they did at Ipperwash, albeit a much larger number of officers are being used in Caledonia. Again, these are similar circumstances.
- 147) The current Premier and the Provincial legislature have been closely monitoring and involved in the Caledonia situation, as was the case with Ipperwash. This is despite the fact that Caledonia involves privately owned lands as opposed to a publicly owned Provincial Park, as was the case with Ipperwash.
- 148) Injunctions were obtained in both circumstances. Those court orders were not effective in ending either of the occupations.
- 149) The circumstances in Caledonia, as at Ipperwash, have again resulted in violence. In fact, the occurrence of violence has been greater in Caledonia than it was at Ipperwash, but in Caledonia there has been no death.
- 150) In light of the Caledonia occupation, the question of “similar circumstances” is neither academic, nor abstract.
- 151) The obvious first and most fundamental recommendation to avoid violence in a similar situation is for all involved to respect the law, whether it be the law of trespass or criminal law relating to mischief, destruction of property, threatening, assault, or civil law with respect to injunctions.
- 152) In order to avoid violence, the recipe is simple:
- a) Follow the proper statutory processes;
  - b) Respect the court processes;
  - c) Do not use self-help; and
  - d) Do not take the law into your own hands.
- 153) However frustrating and slow governmental and court processes may be, self-help by occupying lands is the first step towards violence, and it is submitted that the starting point for any and all recommendations must be a condemnation of

- self-help as a remedy for disputes of any kind, regardless of whether the dispute is legitimate or not and regardless of whether the dispute is long-standing or not.
- 154) In order for there to be any chance that the relations between the native and non-native communities in Lambton Shores will return to one of mutual respect and co-operation that existed prior to the summer of 1995, the occupation of the Provincial Park has to end and the possession of the property must be returned to the Ministry of Natural Resources.
- 155) The Province should build an interpretive centre, which would be focused on the history of the area, the significance of native culture, the occurrences of September 6, 1995, and the contributions of local natives to both the local community and Canada as a whole. The interpretive centre could be dedicated to the memories of Clifford and Dudley George. This should be done in co-ordination with the local and national Native leaders.
- 156) The Province should also fence off an area, which an independent shows may be appropriate as an ancient burial ground location and that should be protected under the provisions of the *Cemeteries Act*.
- 157) If there is a land claim properly filed, which claims the Provincial Park lands, then that should proceed on a separate track in accordance with the laws of Canada. If the claim results in the natives having the lands turned over to them then that determination will be made within the rule of law and not as a result of self-help. Should the claimants be successful, then they can determine how they wish to use the land at that point and the option to operate a park such as Serpent Mounds would be available to them.
- 158) Despite the fact that the Federal Government's participation was limited to having counsel attend with two witnesses, the Commission should make it clear in its report that the takeover and occupation of the Provincial Park, which resulted in the death of Dudley George, is principally a result of the inaction of the Federal Government and that the Federal Government should direct both the Ministry of Indian and Northern Affairs and the Ministry of Defence to set as a priority, with a fixed early timetable, the return of the former CFB Ipperwash lands to the Kettle and Stoney Point Band and specifically appoint a mediator, or arbitrator with authority to resolve the issues of who gets what lands and reparations, if any, among the Band members.
- 159) The Ontario Government should consider creating a Ministry that recognizes the importance of the aboriginal people of this Province. Beaubien pointed out

that there are only five hundred thousand (500,000) Francophone Ontarians, and yet there is a Ministry of Francophone Affairs. Perhaps there could be a combined Ministry of Native and Francophone Affairs, recognizing the First Nations as one of the founding peoples of Canada.

- 160) This party strongly urges that there be no recommendation that would reduce communications of any kind, but particularly communications between police and local elected officials in a time of community crisis or a time of local community interest. In a democracy it is essential that the police hear from the public through their elected representatives. The alternative is a “Police State” operating with only police sourced input.
- 161) Rather than “throwing the baby out with the bath water” as Beaubien put it, the system of communication with local elected officials and other community leaders should be refined and managed in different ways.
- 162) While an Incident Commander in the heat of a crisis, with pressure bearing on him from the incident itself, from the media, and from the local citizens, may choose not to meet with local elected officials or community leaders, that choice should be left to him or her.
- 163) The Incident Commander should be permitted to choose to be freed from the communication responsibility and have the option of delegating that task to another senior officer. On the other hand, when the Incident Commander is not at a peak time in the incident and matters are calm, then he or she may in fact wish to speak to elected officials and those meetings may potentially bring about positive results.
- 164) The alternative is to divide the role of Incident Commander along the lines suggested by Carson. There would be one senior officer who would communicate with local elected officials and other appropriate leaders, spokespersons and stakeholders. That officer would then provide advice to the Incident Commander, whose responsibility would be strictly operational.
- 165) The senior officer, whose portfolio would include communications, would have to be more than merely a communications person, or as is colloquially known, a “talking head”. In relation to the Ipperwash incident, O.P.P. officer Douglas Babbitt was the media/communications officer. That role may still be necessary and separate from the senior officer. The senior officer should be on a level equal to the Incident Commander if he or she is to have any credibility. In retrospect,

perhaps this role should have been at a level of Chief Superintendent, and in the case of Ipperwash might have been Christopher Coles.

166) The difficulty with putting the Incident Commander in a “sealed bubble” is that all of his information will come only from internal O.P.P. sources, which might in and of itself colour his perspective. If he is given the discretion to isolate himself, then the best of both worlds can be achieved. As Carson put it:

**“However, what is clear is the police must be provided with all viewpoints. Information from political leaders may validate or dispute other information known to the police.**

**That confirmation or lack thereof may be an important consideration. The viewpoint may be from a perspective otherwise not available. The elected official may be an important individual to communicate a vital message to the community that contributes to a positive outcome.”**

**Evidence of John Carson, June 1, 2005, at pp. 64-65**

167) Finally,, it is submitted that the Commission’s report and recommendations should be crystal clear, as a first principle, that there can be no condonation of the self-help approach of the takeover and subsequent occupation of the Provincial Park in Ipperwash, being in the public domain of the people of Ontario. The frustration of many of the Kettle and Stoney Point Band members with the inaction of the Federal Government should be acknowledged, but without condoning the clear breach of the law in taking over Ipperwash Provincial Park.

**All of which is respectfully submitted this 28<sup>th</sup> day of July, 2006,**

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