

# THE IPPERWASH INQUIRY

The Honourable Sidney B. Linden, Commissioner

---

## WRITTEN SUBMISSIONS

on behalf of

The Estate of Dudley George and  
Members of Dudley George's Family

---

### **Klippensteins**

Barristers & Solicitors

160 John St., Suite 300  
Toronto ON M5V 2E5  
Tel: (416) 598-0288  
Fax: (416) 598-9520

Murray Klippenstein  
Vilko Zbogar  
Basil Alexander

### **Andrew Orkin**

Barrister & Solicitor

103 Glenfern Ave.  
Hamilton ON L8P 2Y9  
Tel: (905) 522-7929  
Fax: (905) 522-0884

August 1, 2006

# TABLE OF CONTENTS

<b>FOREWORD .....</b>	<b>IV</b>
<b>CHAPTER 1: WHY DID DUDLEY DIE? – AN OVERVIEW.....</b>	<b>1</b>
<b>CHAPTER 2: THE ORIGINS OF CONFLICT – TREATY MAKING AND LAND TAKING .....</b>	<b>10</b>
PHASE I – CONTACT AND PEACE-MAKING .....	11
Since time immemorial .....	11
What it cost to secure the peace: the Treaty of Niagara .....	12
Land purchases after 1790: when British promises still meant something...	15
PHASE II – FROM TREATY TO BREACH .....	18
Coming back for more: the Treaty of 1827 .....	18
The “civilization” project takes flight, in a most uncivilized way.....	20
The grand assimilation plan.....	23
PHASE III – TAKING MORE AND MORE RESERVE LAND.....	24
The assimilation strategy plus local Indian Agent power plus land speculators – a powerful mix .....	25
The power of the Indian Agents to obtain community land surrender votes	26
Taking the treaty lands at Stony Point – the 1928 Surrender .....	29
Obliterating the rest of the Stony Point Reserve under the War Measures Act .....	38
PHASE IV – FIFTY MORE YEARS OF FRUSTRATION.....	41
Displacement, Disaster.....	41
Dishonour - Ongoing refusal to return the stolen land .....	42
The reclamation project .....	43
<b>CHAPTER 3: A SACRED BURIAL PLACE .....</b>	<b>46</b>
THE IPPERWASH BURIAL EVIDENCE .....	47
1937 – A reasonable request: protect the burial ground .....	47
1940 to 1950 – Bones, and more bones.....	49
1972 – Hamalainen Archaeological survey.....	50
1975 – The resurrection and reburial of burial ground archives.....	51
1993 and beyond – Ongoing requests regarding Park burial ground.....	51
<b>CHAPTER 4: THE LIFE AND TIMES OF DUDLEY GEORGE.....</b>	<b>54</b>
HAPPY-GO-LUCKY DUDLEY .....	54
TRAGEDIES AND TROUBLES.....	57
FINDING A MISSION IN LIFE – RECLAIMING HIS BIRTHRIGHT.....	59

<b>CHAPTER 5: THE IPPERWASH PARK OCCUPATION .....</b>	<b>63</b>
A NEW ERA OF GOVERNMENT IGNORANCE AND DISRESPECT FOR FIRST NATIONS IN ONTARIO.....	63
RECLAIMING THE PARK.....	65
POLITICAL OUTRAGE BY A HAWKISH PREMIER .....	67
JOHN CARSON MEETS THE ALLIGATORS – POLITICAL PRESSURE BUILDS.....	71
A PICNIC IN THE PARK .....	77
DIRECTION FROM THE TOP – CREATING AN EMERGENCY .....	81
Deb Hutton v. the civil servants: the Interministerial Committee meeting ....	81
Mike Harris takes control: the Premier’s Dining Room meeting.....	84
MORE ALLIGATORS AND BIGGER ALLIGATORS .....	88
<b>CHAPTER 6: POLITICAL PRESSURE TAKES ITS DEADLY TOLL – THE EVENING OF SEPTEMBER 6, 1995.....</b>	<b>99</b>
HOW A PEACEFUL SITUATION TURNED DEADLY .....	99
Before 7:50 p.m.: The Calm Before the Storm.....	99
7:50 – 8:24 p.m.: Sending a runaway train down the track – the unauthorized deployment of the riot squad.....	101
<i>Wright and Korosec set the CMU train in motion .....</i>	<i>101</i>
<i>The CMU Train Leaves Without Authority.....</i>	<i>104</i>
The unwillingness and inability to stop the runaway train .....	107
SPINNING A FAIRY TALE TO POLITICALLY JUSTIFY MOBILIZING THE TROOPS .....	111
ATTEMPTED JUSTIFICATIONS FOR THE MOBILIZATION OF FORCE .....	115
The bonfire that wasn’t outside the Park.....	118
Men with bats.....	118
The women and kids said something was about to happen .....	119
Vehicle movement within the Park and Army Camp .....	119
The blinds in the kiosk .....	120
The fear of the occupation expanding.....	121
The fear of cottagers attacking .....	122
A sober second look at the purported justifications for deployment of massive force.....	122
The fairy tale was the only triggering reason for the OPP response .....	123
<b>CHAPTER 7: CONCLUSIONS AND FINDINGS OF FACT.....</b>	<b>125</b>
HISTORICAL AND LAND-RELATED ISSUES .....	125
POLITICAL INVOLVEMENT .....	127
EVENTS ON THE GROUND .....	131
FACTORS CAUSING DUDLEY’S DEATH.....	134

<b>CHAPTER 8: RECOMMENDATIONS .....</b>	<b>137</b>
RESTORATION OF THE STONY POINT RESERVE .....	137
RESEARCH AND PUBLIC EDUCATION.....	140
RESPONDING TO NATIVE OCCUPATIONS AND BLOCKADES .....	144
LEGISLATIVE AMENDMENTS.....	147
LAND CLAIMS PROCESS .....	149
CORRECTING THE PUBLIC RECORD .....	150

## FOREWORD

*by Maynard Donald “Sam” George*

From the time I got that telephone call on the night of September 6<sup>th</sup> and to this very moment, I hurt. I will hurt until the day I meet with my brother again. I know if it hurts me like this, it has to be doing the same to my brothers and sisters too. My family has had its share of family members passing on to the spirit world, but that does not make it any easier. I thought about my mother and father watching from the spirit world, and it must have hurt them a lot to see what happened to Dudley during the night of September 6, 1995. It has been hard on all members of our family, including the nieces and nephews that he would play hide-and-seek or hockey or board games with. And the questions have always been: what happened, and why?

I never dreamed it would take this long to get those answers because we just wanted to know the truth. We did not think it was such a big deal to ask such simple questions, or that it would take so long for people to answer them. In the beginning, I wasn't used to the systems, especially how long they take, and the Elders said to me: Are they going to complete it in 4 years? If not, it will be in 8. If not, in 12. They always used multiples of 4, and they were right on because we will finally get those answers in the 12<sup>th</sup> year.

I would not want to see anyone go through what we went through. In the face of setbacks, we had to sit down and think about where we wanted to go and how to get there and how to just move forward. At times, it got harder and harder, but that was actually what gave us the incentive to keep going. Things would come out, and we would move forward again.

Although people told me that the Inquiry might never come, I knew that it would, and it did. A lot of sacrifice went into it and sometimes you do not realize how long it can take. One day, on my way back to Forest, I looked at who was driving me, and I

realized how much time has gone by because it was my grandson, who was 5 when all of this started in 1995.

I had a dream the other night. I was being chased by people onto a shore, and people were trying to grab me. A man grabbed me by the forearm, and the pipebowl I was carrying fell on a rock and shattered. But when I picked it up, it was whole again. I talked to my Elders about what this meant. They told me: That pipebowl represented your brother, and the people chasing you represented all those who wanted your people out of the Park. When those people finally got you and the pipebowl fell and shattered, that was the shot that killed Dudley. That shock – that went straight across the country. When you picked it up and it was whole, the First Nations people united and came back together. A sign that the people were there behind you. This speaks of First Nations people being unified in the aftermath, more than ever.

Once the inquiry was finally called, the question became: who was going to be the Commissioner and what would he be like? While I had learned a great deal about civil trials, I now had to learn a lot about how public inquiries work. I met with Commissioner Sidney Linden, his Commission Counsel and some of his staff, and I had a good feeling about the Commissioner, particularly that he was going to be sincere and honest. When we first applied for party standing, I told the Commissioner that he had a very hard job in front of him. We needed answers to the questions that we had been asking for so long, and we put all our hope and trust into this process. Now having seen all the witnesses on the stand, he still has a very hard job in front of him because now he has to put all the pieces of the puzzle together.

We had always said that Kenneth Deane was just a small piece of this puzzle because there was a much bigger picture there. Who put Kenneth Deane there and why? I think that whatever the Commissioner says will be helpful. We don't know what the report will say when it is done, but we asked him to do this job and we trust him to do it. Whatever comes out in the report, we always knew he has a tough job to do and he faces tough decisions. The full puzzle has to be completed, and it's now the Commissioner's turn to try to put it together. We know there might be things we disagree with, but we will still be grateful when it comes out.

I think that this Inquiry is about historic land issues and about accountability, and it has done a good job because I think that all of the puzzle pieces have now been found. We were right when we said before that Kenneth Deane was just a small part of the puzzle, and it's now time to put together all instead of just part of the puzzle.

We sacrificed a lot in order for the truth to come out, and the cost of getting here was very great to individuals including myself, my family my community, all First Nations people and all those who believe life is sacred. We are now dealing with the aftermath of September 6, and we will continue to deal with it long after the Inquiry is over.

We came into that large hearing room with a lot of individuals with a common goal: to make things better for all parties and all people. In saying good morning or hello to everyone, that showed that we are willing to do the healing part. My family after all this time will start to get some closure, and we will all hopefully be able to start to heal and to move forward. My family has not properly mourned after our brother died, because we really did not know everything that was involved in his death that night.

But healing will not truly take place if the Park lands are not returned. It is only once the lands are restored to First Nations territory that everyone can start to work on personal healing. Without the lands, things will not move forward. There needs to be a lot of work done in that area both personally or individually and as a community, including with government and police. It can be done, but it will take a lot of hard work.

We want Dudley to be the last person to die in a dispute over First Nations territories. Dudley has left to the spirit world, and we can only thank him for what he did for the First Nations people at Kettle and Stony Point. But one life lost is one too many, and one can't put a price on a person's life, especially since all life is sacred.

We have to remember that a lot of people were involved over the years in our search for the truth, and we have to particularly thank the people of Ontario and the support they gave us in order to get to this point.

I thank the Commissioner for the time he has taken to listen over the past few years and the Commissioner's family for letting him come to our territory so often to do his job. To his staff: Derry, Susan, Don, Katherine, Jodie-Lynn, Megan, Rick, Jerry,

Susan Beach, Peter Rehak, George, Ron, and all the other staff in the background – thank you for putting your expertise to work so that we had a good inquiry.

To the parties' legal teams: thank you for your sincere interest in the Inquiry. I watched the way all of you interacted, and I saw a lot genuineness there, and we all had to put a lot of things to the many witnesses so that the truth could be found.

It is very hard to describe what my legal team has done for myself and my family over the years: Murray, who has been there since the beginning (and who my children called “Uncle Murray” since he became part of the family); Vilko, Basil, the students and the others from Murray’s firm over the years; and Delia and Andrew who were the other legal counsel involved for many different years. There is so much to say to these people for giving such large parts of their lives to help us to get where we are now, and how do you repay these people for the jobs they have done? One of the most important things that came out of this was the friendships, and we will all continue to be friends long after this is over.

Thank you to my brothers and sisters for giving me this job and trusting me to do it, as well as all the help and support over the years, including financially and emotionally. Thank you to my children and grandchildren who sat patiently at home, watching, wondering from time to time where I was, perhaps hoping that I would be able to come back home some day: there is a lot of time that we cannot replace, but there is also a lot of time that can now be enjoyed together.

The most important person who I really have to thank is my wife, Veronica. I am not sure that there would be many wives that would put up with the kind of journey that I took her through and all the things that we gave up. Hopefully, we will pick up where we left off, and we are looking forward to spending more time together, doing more things together. She was very special through all of this, and she is still very special today. She always supported me, she was always there when I needed her, and she will always be there for me. I thank the Great Spirit for putting her in my life.

The final person that I have not yet thanked is Dudley. I have to acknowledge him for the time he was with us on this earth and for the lessons he taught us before he went to the spirit world to join our mother and father. Some day we will meet again, and until then he will always be in my mind and in my heart.

## CHAPTER 1: WHY DID DUDLEY DIE? – AN OVERVIEW

Premier Mike Harris perched on the chair at the head of his boardroom table, agitated, but determined. It was not even three months after he swept into power under the banner of the Common Sense Revolution, and for the first time in the young life of the government he had a crisis – or rather, an opportunity – on his hands. A small group of Indians had occupied a Provincial Park in southwestern Ontario. This was a test for the new government, eager to show its toughness, and put its so-called “law and order” agenda on display. The Indians were to be treated like any ordinary lawbreakers – like a bunch of bikers. *This* government treated natives and non-natives the same. So what if they had treaty rights and constitutionally protected aboriginal rights, and so what if the sacred burial places of their ancestors had been desecrated under the government’s watch decades ago?

To the senior civil servants nervously assembled in Harris’s boardroom, it was all a little unsettling and strange. They waited uncomfortably for the orders from the leader of the province. Harris’s passionate words pierced the tension: “I want the fucking Indians out of the park!” He might have added, reminiscent of King Henry II, “will no one rid me of these meddlesome Indians?” but he did not need to. Harris’s message was as clear to those assembled there on September 6, 1995 as King Henry II’s message was to his knights in 1170 before they ventured off to assassinate St. Thomas Becket. The Premier wanted the fucking Indians out of the Park – nothing else.

Harris’s reckless, incendiary words filtered down to Chief Tom Bressette, who kicked into action and did what he could to get a message to the occupiers that something was about to happen. And Harris’s desires similarly filtered down to OPP incident commander John Carson and his deputies, Mark Wright, Stan Korosec, and others. One channel of communication was OPP liaison officer Ron Fox who, unbeknownst to him,

had been summonsed to a meeting with the Premier by the Premier's aide, Deb Hutton, in order to hear the Premier's wishes and act as a messenger to the OPP.

It was clear to Carson, Wright and Korosec what the Premier wanted. He wanted the fucking Indians out of the Park. He wanted it quick. Wright and Korosec embraced the message with open arms. With a sense of purpose emboldened by the anti-Native political atmosphere of Mike Harris's Ontario they pulled the levers to (in Korosec's words) "amass a real fucking army to do these guys." Carson, Wright, Korosec, and Dale Linton amassed a real fucking army alright, and dispatched it to march upon the small group of natives occupying an empty Provincial Park in the dark of night, with violence to be the inevitable, and foreseeable, result.

They did get Dudley George out of the Park that night. An OPP sniper lowered the sights on his high-powered Heckler Koch MP5 automatic rifle onto Dudley George, one of what Harris called "the fucking Indians." He took him out with a 9 mm bullet to the chest.

Anthony O'Brien "Dudley" George, 1957 – 1995. May he rest in peace.

His spirit still stirs, searching for the truth. He, his brother Sam, and the rest of his family know how he died – they just did not know why. And so they fought against impossible odds for over a decade to find the truth. This Inquiry has revealed much of the truth, but sadly, not every witness had the courage to speak the truth. Not everyone was able to look Sam George in the eye as they sat in that witness chair. The Creator cannot force people to tell the truth. But the Creator can give us the wisdom to judge who speaks from the heart, and who does not. With that wisdom, the truth, as ugly and inconvenient as it sometimes can be, does shine through.

They took Dudley's life away long before Ken Deane shot him in the chest, long before Premier Mike Harris drew a line in the sand with his infamous remark on that fateful day. They took his life away when they took his ancestors' land. For the Anishnaabeg, for Dudley and his people, land is life.

When the Kettle and Stony Point people were swindled out of their treaty lands in the 1920s, the white land speculators and Indian Agent perhaps didn't know how devastating it would be for the Anishnaabeg of Kettle and Stony Point. More importantly, they, and the white governments, did not particularly care. After all, Indians were a doomed race, or such was the government policy at the time.

The governments would not care until at least a decade after Dudley gave his life for the land, when Premier Dalton McGuinty announced this Inquiry. However, the Inquiry is but a first step. It is one thing to call an Inquiry, it is another to have the courage to realize what needs to be done to repair the grievous wrongs of the past, and then do it. It remains to be seen whether the Inquiry, and the Federal and Provincial governments, have the guts and the wisdom to do what is necessary to right the wrongs of the past, to deal with the grievances that go back eight decades or more, to recognize that the roots of Dudley's killing were sown when shady land deals took away his ancestors' treaty reserve lands, and to restore the Stony Point Reserve lands – their lifeblood. There has been a lot of talk about healing, but healing cannot begin until the land is healed. The land will not be healed until it is returned to its Anishnaabeg inheritors.

Mike Harris did not invent the project to dispossess Indians of their treaty lands. There is a long and sordid tradition in Canada, dating back to the nineteenth century, of disposing of the Indian problem by assimilating Indians and dispossessing them of their lands. Harris was merely one of the project's ardent modern-day disciples, but unfortunately, not the last. Dudley was just one of the latest victims, notable because of how he died. Normally, the project works in more subtle ways.

The formula employed by Harris and by many before him: ignore the grievances of First Nations, uphold shady land deals that cheat First Nations out of the slivers of land they have left, and teach the Indians a lesson when they try to take a stand. Most importantly, treat aboriginals and non-aboriginals the same.

Now we have governments that routinely make promises to improve the living conditions of First Nations people, and make contributions to their health, and education, economic development, even relocating communities like Davis Inlet and Kashechewan. But never do governments dare to address the real underlying problems inherent in the unfair and morally corrupt takings of treaty lands through so-called surrenders that took place throughout the early twentieth century. Until they do, there will inevitably be ongoing frustration by First Nations peoples. There will inevitably be other occupations of treaty lands (like in Caledonia now). And there will always be a risk of the political use of violence against them, like at Oka and Ipperwash.

If there is one thing that governments can do to make sure that nobody ever again dies in a First Nations land protest, it is this – give back treaty reserve lands that have been taken, when that is the right thing to do.

This is the lesson that Dudley's death has taught us. This teaching is his legacy. Give back treaty reserve lands.

There is no doubt that had it not been for the Crown breaking treaty promises by the taking of his ancestors' treaty lands, Dudley would still have been alive on September 7, 1995. There would have been no confrontation, because there would have been no occupation. The occupation only occurred because:

- The Crown fundamentally breached solemn treaty promises;
- In particular, the Crown took away land that was guaranteed to the First Nation in perpetuity, by way of shady land deals that were not in the best interests of the people;
- The province desecrated the sacred aboriginal burial grounds in the Park and did absolutely nothing to protect them;
- Canada refused to return the unceded reserve lands (Camp Ipperwash) appropriated during WWII for decades and decades;

- Racist laws (in particular, the *Indian Act*, especially prior to the 1951 amendments) and a foreign judicial system have worked grave injustices against First Nations people;
- First Nations peoples' attachments to land run deep and survive through many generations and their grievances will remain until they are satisfied that they have been dealt with fairly; and
- After 67 years of being dispossessed of treaty lands, and of having their grievances suppressed, it is inevitable that some First Nations peoples will become frustrated to the point that they resort to self-help remedies to address the historic unfairness perpetrated against them.

Most of these issues are not unique to Ipperwash. They are present across Canada. These issues will not go away with the passage of time. First Nations people will never forget the treaty promises made to them, and will never lose their connection to their treaty reserve lands. If these issues remain unaddressed – if treaty reserve lands remain unreturned and if burial grounds are desecrated – continued First Nation frustrations will be inevitable. There will be protests, blockades, and occupations.

When protests, blockades, and occupations occur, there will also be a risk that state forces will perpetrate violence against the First Nations participants in those activities, unless we learn from Ipperwash. Ipperwash gave us valuable lessons in how *not* to deal with these situations. There were many things that went wrong at Ipperwash. There was a toxic mix of factors that caused violence to be directed against the Park occupiers, and that ultimately caused Dudley's demise. The ingredients in that toxic soup included:

- A hawkish anti-native Premier who saw the occupation as a “test” for his government and who had a single-minded purpose of ending the occupation immediately, no matter what the risks;
- The Premier and his aide, Deb Hutton, ignoring the advice of the professional servants to take a prudent and cautious approach given that the occupation was

not causing any public safety risk, and opting instead to treat the matter as a dire emergency;

- A Premier who failed to appreciate that politicians should have no role in interfering with police discretion and opining about police operational matters;
- The Premier communicating to a person he knew to be a police officer what his wishes were, e.g., that it was time for swift affirmative action to evict the occupiers;
- The Premier's decision to get an emergency injunction, which meant an *ex parte* injunction application would be brought the next day, and which created an emergency mindset within the government and within the OPP;
- The communication of the Premier's wishes, views, and instructions regarding the occupation from Queen's Park to the police at Ipperwash Park, including:
  - Treat natives and non-natives the same;
  - Take swift affirmative action to remove the occupiers;
  - Treat the occupiers like a bunch of bikers; and
  - The OPP was going to end up evicting the occupiers,all of which caused strong political pressure on the OPP to end the occupation;
- The OPP buying into the emergency mindset caused by the Premier's insistence that the matter be considered a dire emergency even though it wasn't:
  - This put some OPP officers, particularly Mark Wright and Stan Korosec, in a position where they would consciously or subconsciously be looking for an emergency which they knew the Premier wanted;
  - This also rendered Incident Commanders John Carson and Dale Linton unwilling or incapable of sticking to the OPP's traditional approach of caution and prudence because they knew the Premier wanted action;
- Far too many of the involved police officers were racist and anti-native. Some of the police officers accepted the views of the Premier as license to act on their own hawkish and sometimes anti-native impulses; and

- Largely because of the political pressures, and the emergency mindset caused by the Premier, police intelligence was inept and caused minor incidents to be wildly distorted to the point where they became used as justification to deploy massive force against the occupiers.

The trigger was a trivial little incident on the evening of September 6, 2006 after OPP Sergeant Mark Wright left a meeting of angry local cottagers. Mark Wright knew the locals wanted something done. More importantly, he was well aware that the Premier was following this closely and wanted the occupiers out of the Park. The stars were aligning for Mark Wright, as he too was aching to “go get those fucking guys” out of the Park and into jail.

Wright stopped by the Park, noticed a handful of occupiers standing near the Park fence, a few with bats or sticks in their hands. He spoke briefly to one of the occupiers and drove on. Shortly thereafter, Gerald George, a member of the Band Council, stopped by the Park. He was not a welcome guest since he had been quite outspoken against the Stony Point occupiers. He had a little spat with one of the occupiers, Stewart George, and drove off. As he did so, Stewart George threw a rock at Gerald George’s car, successfully managing to hit the rear fender and causing a small dent.

Mark Wright and his compadre, Sgt. Stan Korosec, were eager to “amass a real fucking army to do those fuckers big time.” This dented fender incident was trivial, but it was enough. It was the opportunity that Wright and Korosec needed. This incident wasn’t an emergency, but it soon would become one.

By the time the version of this event reached the Incident Commander, Dale Linton, and the John Carson, it had morphed into a fairy tale that had no resemblance to reality. Linton understood that the incident involved ten native males with baseball bats banging on a white woman’s car as she was innocently driving by the Park. A damsel in distress beset by a gang of ogres.

Wright and Korosec immediately set to work amassing the troops – a real fucking army indeed. Linton called out the tactical and sniper unit to make some arrests. Carson was off having dinner, but quickly galloped back to the Command Post where he found that chaos had taken hold and that the troops were amassing. Carson gave in and gave his rubber stamp to the mobilization of the riot squad that Wright and Korosec had set in motion. Carson knew the political realities of the situation. He knew what the Premier wanted. In the face of that, he was not prepared at all to put the brakes on the runaway train that was the OPP riot squad (or CMU).

Intense political pressure was brought to bear on John Carson and his team. This gave those police officers with anti-native impulses and hawkish views that aligned with the Premier's views license to act on their own aggressive, anti-native sentiments. It also resulted in the senior OPP officers, Carson and Linton, being unwilling or unable to step back and objectively scrutinize the escalating false stories or contain the inertia toward the mobilization of massive force, because they knew that escalation of the situation into an emergency was exactly what the Premier wanted.

John Carson was already well aware that prudence and caution would not be rewarded in this situation by the Premier. The Premier had already been critical of the OPP for failing to prevent the occupation, and there was no incentive to attract further criticism and possible career consequences by failing to act.

There is no doubt that Dudley would never have been shot by an OPP sniper at Ipperwash Park on September 6, 1995 if the Premier had not exerted such political pressure and manufactured an emergency. There is no doubt that if the policy of the Premier was that First Nations rights should be respected as opposed to treating aboriginals the same as non-aboriginals, and if the policy of the Premier was to stress peaceful solutions rather than aggression and force, the OPP would similarly have been much more restrained and respectful and rational.

We know there was political pressure from the Premier on the OPP. We know there was violence and death caused by the OPP. And we know that the OPP were influenced in some way by the political pressure; otherwise the violence and death would never have occurred.

## CHAPTER 2: THE ORIGINS OF CONFLICT – TREATY MAKING AND LAND TAKING

It is naïve to think that healing of the wounds that afflict Ipperwash can be accomplished by addressing only the wrongs that occurred in 1995. The wounds run deep, and they run back almost two centuries, to a time when the British colonists decided to renege on the pacts made with their Indian allies.

The wounds were opened when the land was taken, most specifically when the lands that became the Park were taken away in 1928. The Anishnaabeg came from the land and are shaped by the land. The land is part of the identity of the Anishnaabeg. For the Anishnaabeg, the landscape is spiritual, not merely geographical.<sup>1</sup> When land is lost, part of that identity and spirituality is lost.

The loss of the lands that became the site of the Park protest in 1995 was the product of a grand strategy of assimilation and disappearance of the Anishnaabeg that was articulated by Canada's first Prime Minister, of a local Indian Agent with authoritarian powers under the *Indian Act*, and of a local land-speculating elite who had drawn the Indian Agent into personally profiting from the sale of treaty-guaranteed lands he was supposed to be protecting.

There will be no healing until the treaty promises are honoured, and until the land is restored to First Nations peoples. That is not just a story of Kettle & Stony Point. It is a story from across Canada.

---

<sup>1</sup> Exhibit P-1, Darlene Johnston, "Connecting People to Place: Great Lakes Aboriginal History in Cultural Context," p. 3, 6 [Johnston, "Connecting People to Place"].

## ***Phase I – Contact and peace-making***

### **Since time immemorial**

Since time immemorial, Dudley's forefathers lived on the land surrounding the Great Lakes. Well before Samuel de Champlain and his European brethren encountered the Anishnaabeg people on the shores of Georgian Bay in about 1615, they were well established on the lands, living on and with the lands, planting corn and other crops, hunting, and trading widely with far-flung communities.<sup>2</sup>

After first contact, the Anishnaabeg entered into strategic and military alliances with the French. Even though their French allies were defeated by the British in 1760, the Anishnaabeg remained in firm control of the Upper Great Lakes region.<sup>3</sup> As Chief Minavanana told English merchant Alexander Henry when he ventured into the Upper Great Lakes after the evacuation of French forts:

Englishman, although you have conquered the French, you have not yet conquered us! We are not your slaves. These lakes, these woods and mountains, were left to us by our ancestors. They are our inheritance; and we will part with them to none.<sup>4</sup>

The British never did conquer the Anishnaabeg. Prior to 1760, when the Anishnaabeg allied with the French, the British did succeed in inflicting casualties on many of the Anishnaabeg peoples. After the French surrendered, however, the Anishnaabeg let it be known that there would be a price to pay for their losses. The Anishnaabeg warned the British that they would suffer retaliation unless the English king made peace with them and compensated them for their losses.<sup>5</sup> Until the British made a treaty with the aboriginal peoples and made peace with them, British interests in the colonies would be

---

<sup>2</sup> Johnston, "Connecting People to Place," p. 4, 8.

<sup>3</sup> Johnston, "Connecting People to Place," p. 13.

<sup>4</sup> Johnston, "Connecting People to Place," p. 13; Evidence of Darlene Johnston, July 13, 2004, p. 174-75.

<sup>5</sup> Johnston, "Connecting People to Place," p. 13; Evidence of Darlene Johnston, July 13, 2004 p. 177.

at grave risk.<sup>6</sup> And they were at serious risk in Pontiac's war. Alexander Henry himself witnessed Anishnaabeg forces capture Michilimackinac, one of many forts the Anishnaabeg would capture in the Great Lakes area in Pontiac's war.<sup>7</sup>

## **What it cost to secure the peace: the Treaty of Niagara**

Leagues away on the other side of the Atlantic Ocean, King George III worried about the security of his interests in his colonies. He knew he needed to take steps to protect his British subjects by making peace with the Indians. He took the first step toward securing the peace by issuing a Royal Proclamation to his subjects, on October 7, 1763.

King George declared all lands outside the boundaries of the settled colonies to be hunting grounds for "the several Nations or Tribes of Indians with whom We are connected, and who live under Our Protection," and prohibited his subjects from trespassing on those lands. The territory reserved encompassed the entire Great Lakes region, including Detroit.<sup>8</sup> He acknowledged, and declared, that almost everything west of the Quebec border was Indian country.<sup>9</sup> As he stated in the Royal Proclamation, King George III was well aware that it was:

essential to Our Interest and the Security of Our Colonies that the several Nations or Tribes of *Indians* with whom We are connected, and who live under Our Protection, should not be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds [emphasis in original]...<sup>10</sup>

---

<sup>6</sup> Evidence of Darlene Johnston, July 13, 2004, p. 177.

<sup>7</sup> Evidence of Darlene Johnston, July 13, 2004, p. 177.

<sup>8</sup> Johnston, "Connecting People to Place," p. 14.

<sup>9</sup> Evidence of Darlene Johnston, July 13, 2004, p. 185.

<sup>10</sup> Royal Proclamation, Inquiry Document No. 4000438; Evidence of Darlene Johnston, July 13, 2004, p. 177-78.

Although the Royal Proclamation indicated the King's desire to make peace, it was not an agreement with the Indian nations but a proclamation for his British subjects. The peace would not be secured without the Indian nations agreeing to terms with the British. And so the King dispatched Sir William Johnson to meet with the Anishnaabeg of the upper Great Lakes and make peace with them. In 1764, at Niagara, Sir William Johnson met with more than 1500 Anishnaabeg chiefs and warriors.<sup>11</sup>

Sir William Johnson had a difficult task convincing the Anishnaabeg that the British were not the land thieves they had a reputation for being, and the Anishnaabeg were naturally wary of whether they could trust them. He made a strong effort to disabuse them of that notion. He presented a wampum belt, the great Covenant Chain Belt, to the Anishnaabeg, assuring them that the King was not interested in stealing their lands:

My children, I clothe your land, you see that Wampum before me, the body of my words, in this the spirit of my words shall remain, it shall never be removed, this will be your Mat [i.e., your country] the eastern Corner of which I myself will occupy, the Indians being my adopted children their life shall never sink in poverty.<sup>12</sup>

By these words, he spoke of the permanence of the promises made, and that the promises were contained within the symbols in the wampum belt.<sup>13</sup> This promise paralleled the words in the Royal Proclamation to the King's subjects.

The Covenant Chain Belt, and the promises embedded within it, was only part of the price of securing the peace with the Anishnaabeg. Johnson presented a second wampum belt, the Twenty-Four Nations Belt, to the Anishnaabeg, promising that the British will always make sure that the needs of the Indians shall be provided for.

---

<sup>11</sup> Johnston, "Connecting People to Place," p. 14; Evidence of Darlene Johnston, July 13, 2004, p. 190-91.

<sup>12</sup> Johnston, "Connecting People to Place," p. 14.

<sup>13</sup> Evidence of Darlene Johnston, July 13, 2004, p. 199.

My children, see, this is my Canoe floating on the other side of the Great Waters, it shall never be exhausted but always full of the necessities of life for you my Children as long as the world shall last.

Should it happen anytime after this that you find the strength of your life reduced, your Indian Tribes must take hold of the Vessel and pull, it shall be all in your power to pull towards you this my Canoe, and where you have brought it over to this Land on which you stand, I will open my hand as it were, and you will find yourselves supplied with plenty.<sup>14</sup>

Johnson promises: “You will not be poorer for making a relationship with the British.”<sup>15</sup>

They joined their hands in friendship and sealed their alliance by the delivery of these two extraordinary wampum belts.

In accepting the Twenty-Four Nations belt, the Anishnaabeg bound the British Crown to a perpetual promise that their alliance would be life-giving and sustaining, not impoverishing. This promise was not just a gift or a wish. In the customary law of Anishnaabeg, once a promise is confirmed by the delivery of a wampum belt, it becomes sacred and inviolable.<sup>16</sup> It was a solemn promise entered into in order to secure the peace and protect Britain’s interests in the colony. It was in exchange for the Anishnaabeg casting off the French and taking the British hand.<sup>17</sup>

The two wampum belts, and in particular, the promises embedded in them, formed the foundation of the British-Anishnaabeg Treaty Alliance. They form the framework of protection, sustenance, and territorial respect within which all subsequent agreements are to be interpreted.

---

<sup>14</sup> Johnston, “Connecting People to Place,” p. 15, footnotes 23-24; Evidence of Darlene Johnston, July 13, 2004, p. 202-03.

<sup>15</sup> Evidence of Darlene Johnston, July 13, 2004, p. 200.

<sup>16</sup> Johnston, “Connecting People to Place,” p. 16.

<sup>17</sup> Johnston, “Connecting People to Place,” p. 16, footnote 26.

Both the British and the Anishnaabeg nations thrived under the Treaty of Niagara. They co-existed peacefully, and when called upon by the British to fight by their side in the American War of Independence and later, the War of 1812, the Anishnaabeg did so. For the most part, the Anishnaabeg were not molested on their lands, and the King followed through on his promises in the Treaty of Niagara by giving presents to the Anishnaabeg – items that would make their lives more comfortable and assist them in their way of life.

So there was not always a need for healing – not while the Treaty of Niagara remained whole. Unfortunately, it was only a few decades before the British began to renege on its end of the bargain, as its increasingly insatiable greed for land overtook its honour in meeting its treaty obligations. It began innocently enough. But it was a foot in the door that would later allow the British to stealthily creep into the Anishnaabeg house and exploit its inhabitants.

### **Land purchases after 1790: when British promises still meant something**

Although Sir William Johnson had promised that the English only needed the eastern corner of the Great Lakes Region, the British demand for land increased following the American Revolution.

Initially, the intentions were innocent and honourable: to make a place for the King's allies, both native and non-native, who fought alongside the British in the American War of Independence and who became refugees when the guns ceased.

The Indians knew that with newcomers coming in, there would be changes to the land, but they had also been assured by Britain that, whatever changes may come, they would never become impoverished.<sup>18</sup>

---

<sup>18</sup> Evidence of Darlene Johnston, July 13, 2004, p. 203.

The Anishnaabeg fought alongside the British in the American War of Independence, coming to the aid of the British within about a decade of making peace, and fending off the Americans' attempted siege of Quebec. Many Haudenosaunee nations fought alongside the British as well, and suffered huge losses, and also lost their land base in what became New York State.<sup>19</sup> The governor of Quebec, Frederick Haldimand, responded by calling upon the Mississauga to surrender land so that the Haudenosaunee could come north from the territories from which they had been displaced, and the Mississauga obliged.<sup>20</sup>

Later, there were other loyalists who also sought accommodation in British territory after the American War of Independence, and so the King sought to purchase the lands on the north shore of Lake Erie, south of the River Thames.<sup>21</sup> The King's representative, Alexander McKee, met with the chiefs of the four nations in that territory (Hurons, Potawatomis, Ottawas and Chippewas) at Detroit in 1790.<sup>22</sup> Mindful of the relationship of peace that had been sealed by the Treaty of Niagara, and the promise that the Indians would never sink into poverty, they granted the King's request, stating:

[I]s there a man amongst us who will refuse what is asked by a father so good and so generous that he had never yet refused us anything[?] What Nation? None, father. We have agreed to grant all you ask.<sup>23</sup>

During this period, it was a *quid pro quo* relationship. The King had never refused the Indians anything, so why would the Indians refuse the King's request? If the Indians were clairvoyant and knew how the British would dishonour the Treaty of Niagara only decades later, they may never have agreed to part with the land.

In 1795, Alexander McKee came back and asked to purchase an additional 12 square miles of land, as the British were expecting an influx of thousands of Indian allies

---

<sup>19</sup> Evidence of Darlene Johnston, July 13, 2004, p. 204.

<sup>20</sup> Evidence of Darlene Johnston, July 14, 2004, p. 14-15.

<sup>21</sup> Evidence of Darlene Johnston, July 14, 2004, p. 18-23.

<sup>22</sup> Evidence of Darlene Johnston, July 14, 2004, p. 23-24.

<sup>23</sup> Evidence of Darlene Johnston, July 14, 2004, p. 25, 27-28.

displaced by the United States Army.<sup>24</sup> In presenting the King's request, McKee told the Chippewa owners of the land:

[Y]ou are not to consider this small strip of land as bought for the King's immediate use but for the use of his Indian children and you, yourselves, will be as welcome as any, as others to come and live thereon...<sup>25</sup> I cannot too often imprint on your minds, the King[']s paternal regard for all of you, and that the small piece of Land which he is now prepared to purchase, is not for settling of his own People, but for the comfort and satisfaction of yourselves and all his Indian Children.<sup>26</sup>

Warning signs foreboding the future of the British-Anishnaabeg relationship appeared only eight years later, though. McKee was gone, settlers were coming in, and the Chippewas were being made to feel like strangers in their own country.<sup>27</sup> In 1804, Crane chief Wetawninse sent a letter to McKee's successor, Colonel Claus, complaining that local officials did not recognize his peoples' rights at Chenail Ecarte.<sup>28</sup> He states:

Brother, As You always told me, to let you know when any person or persons, molested Us, in regard to Our Lands, And in Compliance with Your friendly request I now take the Liberty to inform You of the same.

I went Yesterday with Captain Harrow to Chenail Ecarte to see those people that are now settling there, and to observe whether they were encroaching on Our grant which if you remember, that you told me, that it was allotted for Us and our Children, and to remain so. I found they had not encroach'd any as yet, *but Captain A. Harrow then and there told me that we had not one Inch of Land in these parts*, and that which belongs to Us, lies a great ways to the Westward of this.

---

<sup>24</sup> Evidence of Darlene Johnston, July 14, 2004, p. 49-58.

<sup>25</sup> Evidence of Darlene Johnston, July 14, 2004, p. 57-58.

<sup>26</sup> Johnston, "Connecting People to Place," p. 17-18; Evidence of Darlene Johnston, July 14, 2004, p. 58-60, 64-65.

<sup>27</sup> Evidence of Darlene Johnston, July 14, 2004, p. 62-64.

<sup>28</sup> Johnston, "Connecting People to Place," p. 18-19, footnote 32.

Such Language as that, held forth, is not very Agreeable to Us, and hope my Brother will take it into Consideration and if possible, put a stop to such proceedings. And will much Oblige Your Friend and Brother [emphasis added].<sup>29</sup>

The British did pay special attention to the concerns of their Aboriginal allies during the War of 1812. However, once the American military threat subsided, the British Crown's attention turned to encouraging agricultural settlement of the region.<sup>30</sup>

## ***Phase II – From Treaty to breach***

### **Coming back for more: the Treaty of 1827**

They came back asking for more land – now all of the land on the north side of the Thames River – some 2,800,000 acres. Their intention was to bring agricultural settlement to the area by non-Native settlers.<sup>31</sup>

The Anishnaabeg eventually entered an agreement, or treaty, in which they agreed to share the lands with the British, with the exception of four reserves. The British called it a sale, or surrender of the lands. The scale of the treaty was massive – over 2.7 million acres were opened up to the Crown, and the Anishnaabeg retained less than 1% of their lands (17,951 acres) as reserves for their exclusive use and occupation. The four reserves were the places that were most important to the Anishnaabeg and which they customarily used, and which they absolutely and repeatedly insisted on keeping.<sup>32</sup> In addition to the reserved land the Anishnaabeg were granted a perpetual annuity, amounting to £1,100 to be divided between the 440 Chippewas occupying the land. This amounted to a payment

---

<sup>29</sup> Inquiry Document No. 4000452; Johnston, “Connecting People to Place,” p. 18-19; Evidence of Darlene Johnston, July 14, 2004, p. 67-68.

<sup>30</sup> Johnston, “Connecting People to Place,” p. 19.

<sup>31</sup> Evidence of Darlene Johnston, July 14, 2004, p. 75-76; Evidence of Joan Holmes, August 17, p. 56-57.

<sup>32</sup> Johnston, “Connecting People to Place,” p. 20; Joan Holmes & Associates Inc., “Historical Background,” June 2004, p. 17 [Holmes, “Historical Background”].

of £2.10s for every man, woman and child, which in those days was about two months salary for a job such as that of an Indian interpreter.<sup>33</sup>

The agreement with regard to the four reserves, which amounted to less than 1% of the lands surrendered, was that they would be preserved for the Anishnaabeg and their posterity forever. As stated in the Treaty, those lands were expressly reserved:

[T]o the said Nation of Indians and their posterity at all times hereafter for their own exclusive use and enjoyment...<sup>34</sup>

These reserved lands included the lands that later became Ipperwash Provincial Park, where Dudley George was protesting when he was shot dead.

The final agreement was signed in 1827.

Somehow, though, the British ended up taking more land in the treaty than the Anishnaabeg intended to give, doubling the Lake Huron shorefront that the Anishnaabeg understood they were selling. While the Anishnaabeg believed that the lands being purchased by the King would run only as far north as the River Aux Sable, as shown on maps accompanying the treaty, the text of the treaty doubled the Lake Huron frontage being sold, extending it to beyond what is now the Town of Goderich.<sup>35</sup> That, however, would unfortunately not be the only injustice that arose from this ill-fated treaty.

The surrender of millions of acres did not initially alter traditional Chippewa land use in the region. The Anishnaabeg understood that these land transactions would not change their way of life – it would certainly have been a deal-breaker if that were being asked of them. Into the 1830's, they continued their seasonal cycles of coming together for the spring and fall fisheries, traveling in smaller groups to their more remote hunting grounds for the winter, and moving to the maple sugar camps before congregating again at their

---

<sup>33</sup> Holmes, "Historical Background," p. 17; Evidence of Joan Holmes, August 17, 2004, p. 77-79, 95-96.

<sup>34</sup> Evidence of Joan Holmes, August 17, 2004, p. 78.

<sup>35</sup> Evidence of Darlene Johnston, July 14, 2006, p. 109-110, 184-185.

fishing sites. Initially, the Chippewas spent very little time on their designated reserves.<sup>36</sup> Certainly, it would be absurd to think that the Chippewa would readily give up their way of life together with giving up title to millions of acres of their land.

### **The “civilization” project takes flight, in a most uncivilized way**

The British, however, soon decided they had other ideas for the Natives. The aboriginal hunting way of life was not compatible with agricultural settlement of the region, or with the interests of the missionaries.<sup>37</sup> So the British embarked on an ambitious project to “civilize” the Indians, and have them adapt a sedentary agricultural lifestyle and become Christians. They started using the presents as a way to affect lifestyle choices of the Indians, and the sustenance that had been promised in the King’s name became conditional upon the Indians adopting the sedentary lifestyle which suited the interest of the British government and missionaries.<sup>38</sup> Notwithstanding the words of the Treaty of 1827 or the Treaty of Niagara, they also pressured the Indians to give up part of the 1% of the lands they had left in reserves, trying to induce the people at Sarnia to move up to the smaller reserve at the River Aux Sable, even though it was, ironically, the reserve least suitable for agriculture.<sup>39</sup>

Naturally, these efforts were met with great resistance by the Chippewas, who held a strong attachment to their reserves and the graves of their ancestors. Waywaynosh, for one:

[F]irmly protested against removing from his present residence on the upper reserve near the Rapids of the St. Clair, saying that *he had been promised by the agents of the Government, when the sale of their land was made, that the Indians should never again be disturbed from the reserves*

---

<sup>36</sup> Johnston, “Connecting People to Place,” p. 22; Holmes, “Historical Background,” p. 19.

<sup>37</sup> Evidence of Darlene Johnston, July 14, 2004, p. 141.

<sup>38</sup> Evidence of Darlene Johnston, July 14, 2004, p. 124, 125, 127, 131-132, 145.

<sup>39</sup> Holmes, “Historical Background,” p. 18.

*allotted to them; That his Relations and Friends were buried near his present residence, and that he hoped the Governor would not insist on his being removed from the place to which he was so particularly attached [emphasis added].*<sup>40</sup>

The British spent eight years getting from the 1819 provisional agreement to a final agreement in 1827, but only two or three years after the treaty to start telling the Indians that they wanted the Indians all to congregate on the one most remote, least arable reserve.<sup>41</sup> This met with great resistance. Of the 2 million acres that were the subject of the treaty, the Anishnaabeg had chosen as reserves four pieces of land which held particular significance for them. They would not be moved from their lands and from the burial places of the ancestors and their children.

By 1860, the presents had entirely stopped, despite great protest from the Anishnaabeg, and despite the promises made to the Anishnaabeg in 1827 and in 1764. Inevitably, this threw them even deeper into poverty and despair. Nevertheless, despite their deepening poverty and intense pressure to give up their reserves, the Chippewas insisted upon the words of the treaties and in retaining their distinctive communities based on the reserves they had chosen.<sup>42</sup>

It did not matter whether the Treaty promises were written with pen and paper, or were embedded in wampum belts, the British did not intend to honour them, and they did not when it ceased being convenient to do so. The Anishnaabeg were trying to do their part, many making drastic changes to their lifestyle, converting to Christianity, and wanting to educate their children.<sup>43</sup> However, the annuity derived from the sale of the lands did not afford the benefits promised as the British used, or withheld, the presents to achieve their own colonial objectives, and the Anishnaabeg fell into poverty.<sup>44</sup> They had been squeezed out of their land and forced to change their way of life with the understanding

---

<sup>40</sup> Johnston, "Connecting People to Place," p. 23, footnote 50.

<sup>41</sup> Johnston, "Connecting People to Place," p. 22; Evidence of Darlene Johnston, July 14, 2004, p. 131, 141.

<sup>42</sup> Johnston, "Connecting People to Place," p. 24.

<sup>43</sup> Evidence of Darlene Johnston, July 14, 2004, p. 170.

<sup>44</sup> Evidence of Darlene Johnston, July 14, 2004, p. 169-170.

that the Great Father would always provide for them, but the Great Father failed to live up to his end of the deal.

Even though the British government failed to live up to its end of the bargain, it did not give the land back. Even when told that the land was insufficient for the Anishnaabeg's needs and numbers, the government did not come through on its treaty promises and purchase additional land for them to keep them from falling into poverty.<sup>45</sup> Rather, the British kept coming back for more – for the few slivers that were reserved for the Indians. From the Anishnaabeg point of view, that was not how things were supposed to happen. That was not the deal that the Anishnaabeg had struck with the British. If the Anishnaabeg did not have the land, they at least had a promise that they would never be allowed to fall into poverty. As it turned out, they ended up both landless and impoverished. The British reaped a windfall, and the Anishnaabeg ended up almost empty-handed.

As long as the British were continuing to honour their promises embedded in the Wampum belts offered at Niagara by exchanging provisions with the descendants of the aboriginal nations represented at Niagara, relationships between the British and Anishnaabeg were friendly and healthy. By 1856, however, the British had ceased paying the Niagara agreement gifts,<sup>46</sup> and this exposed the separation between natives who were additionally signatories to the 1827 Treaty and those who were not.<sup>47</sup> Many non-treaty aboriginals had crossed over from the United States, as a result of loyalties to the British, warfare, American removal policies, and other factors. At one time, the British had extended its hand and invited those people to the colonies, even seeking to purchase land that could be available for them. However, these people were excluded from the annuities payable under the Treaty of 1827, and these unequal rights provoked discord and acrimony within the community that would last for generations.<sup>48</sup>

---

<sup>45</sup> Evidence of Darlene Johnston, July 14, 2004, p. 170-171.

<sup>46</sup> Holmes, "Historical Background," p. 32, 34.

<sup>47</sup> Holmes, "Historical Background," p. 23.

<sup>48</sup> Holmes, "Historical Background," p. 23.

Conflict was also sown by the Indian Department treating the various communities who signed the Treaty of 1827 as a single band. In the 1860s, the Department accepted that Walpole Island was separate from the Sarnia Band, but took the position that the Sarnia Band included the Stony and Kettle Point people. This caused discontent amongst the Kettle and Stony Point people as they complained of being dominated and bullied by the larger Sarnia Band.<sup>49</sup> For example, in 1885, the Sarnia Band Council passed a resolution calling for the survey of the Kettle and Stony Point reserves into farm lots, against the wishes of the Kettle and Stony Point people.<sup>50</sup>

Eventually, in 1900, the Sarnia Band got its way and Surveyor Davidson was sent in. Davidson identified the lots fronting on Lake Huron as having potential for lucrative resort or recreational development, which was followed by local pressure to open up the beachfront for development and settlement.<sup>51</sup>

This is how the century would begin for Albert George and the beleaguered members of his community. Albert George and his family lived on one of those waterfront lots that soon attracted the interest of opportunistic land speculators – a 109 acre parcel on the northwest corner of the Stony Point Reserve that would later be turned into Ipperwash Provincial Park.<sup>52</sup> The century would end with Albert George's great-grandson, Dudley,<sup>53</sup> shot dead by an OPP sniper on that very spot, when he returned home to reclaim his treaty lands and to protest the desecration of his ancestors' sacred remains.

## **The grand assimilation plan**

Meanwhile, the new nation of Canada that had been formed in 1867 had begun with an explicit strategy for dealing with aboriginal peoples, which no less than Canada's

---

<sup>49</sup> Holmes, "Historical Background," p. 23.

<sup>50</sup> Holmes, "Historical Background," p. 29.

<sup>51</sup> Holmes, "Historical Background," p. 32; Evidence of Joan Holmes, August 18, 2004, p. 12, 14.

<sup>52</sup> Evidence of Clifford George, September 10, 2004, p. 150; Evidence of Elizabeth Cloud, March 7, 2005, p. 66.

<sup>53</sup> Evidence of Clifford George, September 10, 2004, p. 184.

powerful first Prime Minister publicly set out. Shortly after confederation, Sir John A. Macdonald informed Parliament that it was Canada's goal "to do away with the tribal system and assimilate the Indian people in all respects with the inhabitants of the Dominion."<sup>54</sup> In his and others' view, the assimilation – disappearance – of Indians was a desirable result to be actively pursued.<sup>55</sup> And with them would disappear the Indian land that had been promised to them in treaties.<sup>56</sup>

The grand strategy of assimilating natives and their treaty reserves was continued particularly doggedly by Duncan Campbell Scott who was, for more than twenty years at the beginning of the twentieth century, the dominant Federal official overseeing and implementing Indian policy in Canada, including Deputy Superintendent General for Indian Affairs from 1913 to 1932.<sup>57</sup> Scott assured Parliament in 1920 that "[O]ur object is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question."<sup>58</sup>

The authorities were vocal and unapologetic about what they thought was best for the Indian people, and that was for the Indians to be assimilated and to disappear into the larger Canadian society.<sup>59</sup> The policy of assimilation necessarily included the act of acquiring Indian treaty lands.

### ***Phase III – Taking more and more reserve land***

But the grand assimilation strategy bumped up against constraints. The Crown had signed treaty agreements which had formally recognized that natives had rights to their land reserves "at all times hereafter", in other words, in perpetuity. It would be politically and morally awkward to blatantly break those agreements.

---

<sup>54</sup> Evidence of Joan Holmes, August 19, 2004, p. 66-68.

<sup>55</sup> Evidence of Joan Holmes, August 19, 2004, p. 69-70.

<sup>56</sup> Evidence of Joan Holmes, August 19, 2004, p. 71.

<sup>57</sup> Evidence of Joan Holmes, August 19, 2004, p. 73-74.

<sup>58</sup> Evidence of Joan Holmes, August 19, 2004, p. 72-73.

<sup>59</sup> Evidence of Joan Holmes, August 19, 2004, p. 82.

So a “dual” strategy developed, in which some of the treaty obligations of the Crown were partially incorporated into the *Indian Act*, while the underlying, long term assimilationist agenda was pursued by more subtle means.<sup>60</sup> For example, the *Enfranchisement Act* was designed to encourage Indians to give up their Indian status. It was one of many pieces of legislation that the Crown used to promote assimilation of Indian people into the greater society.<sup>61</sup> That long term agenda continued to have as a fundamental core the disappearance of distinct Indian people.<sup>62</sup> It was one of the main objectives of the Indian Department.<sup>63</sup>

### **The assimilation strategy plus local Indian Agent power plus land speculators – a powerful mix**

The federal Department of Indian Affairs appointed local Indian Agents to administer its centralized federal policies. These local Indian Agents wielded enormous power in native reserve communities, power that was spelled out forcefully in many ways in the *Indian Act*. The Indian Agents were well aware of the government’s grand assimilation strategy, which was one of the main objectives of the Indian Department.<sup>64</sup> And the local Indian Agents were often friends of local non-native entrepreneurs who knew the hidden underlying value of Indian reserve lands. The combination of the government’s long term Indian assimilation strategy, plus powerful local Indian agents, plus the Agent’s local land speculator friends, was a powerful mix tending inevitably towards piecemeal sales of lands that had originally been promised as permanent native homelands.

One such Indian Agent was the Department’s representative in the Sarnia and Kettle Point/Stony Point area, who in 1928 conducted the surrender of the treaty-guaranteed lands that later became Ipperwash Provincial Park, on which Dudley George was

---

<sup>60</sup> Evidence of Joan Holmes, August 19, 2004, p. 82.

<sup>61</sup> Evidence of Joan Holmes, August 19, 2004, p. 85-86.

<sup>62</sup> Evidence of Joan Holmes, August 19, 2004, p. 86.

<sup>63</sup> Evidence of Joan Holmes, August 19, 2004, p. 74-75.

<sup>64</sup> Evidence of Joan Holmes, August 19, 2004, p. 74-75.

eventually shot. Thomas Paul was from Sarnia, and was appointed as an Agent in November of 1919.<sup>65</sup> Before his appointment, Paul had himself been an on-reserve entrepreneur, having apparently run a major on-reserve investor-owned agricultural operation on leased land under the name of Sarnia Indian Reserve Farm Company.<sup>66</sup>

Paul was also well-connected locally. His brother William R. Paul was the Treasurer of the Sarnia Chamber of Commerce – a body which in February of 1919 had declared itself to be “wholeheartedly” in favour of opening the nearby Sarnia Indian Reserve to City development, and which had suggested that “every means possible [should be] employed to secure the opening of this land for the future development of the City.”<sup>67</sup> Shortly after his appointment as Indian Agent, Thomas Paul was able to partially achieve just that, with a surrender vote of the Sarnia band in favour of selling 1,200 acres of the reserve to the new Dominion Alloy Steel plant.

A few years later, in 1927, Agent Paul again oversaw a sale of reserve land that appeared to be against native interest and in favour of political interests. On that occasion, Paul handled the sale of beachfront property at the Kettle Point reserve, a few miles from Stony Point. Decades later, the Indian Claims Commission studied that sale, concluding that “[t]he Crown had complete control of the situation, but, rather than fulfil [its] obligations, Crown officials instead bowed to political pressure and put the interests of the Band behind third-party economic interests.”<sup>68</sup>

## **The power of the Indian Agents to obtain community land surrender votes**

The *Indian Act* required that reserve lands guaranteed by treaty could be surrendered only by a community vote. Nevertheless, the *Indian Act* also equipped the Indian Agents with

---

<sup>65</sup> “Thomas Paul is Appointed the Indian Agent Here”, *The Canadian Observer*, November 21, 1918.

<sup>66</sup> “Farming Company Formed With Capitalization of \$30,000”, *The Canadian Observer*, May 18, 1918.

<sup>67</sup> “Newly Elected Directors Dine At Vendome Hotel”, *The Canadian Observer*, February 13, 1919.

<sup>68</sup> “Chippewas of Kettle and Stony Point First Nation; Report on: 1927 Surrender Inquiry, March 1997”, p. 88, Indian Claims Commission. Available on the ICC website at [www.indianclaims.ca](http://www.indianclaims.ca).

so much power in the communities, by force of law, that his influence, and his ability to obtain the results in the local community that were desired by the federal senior bureaucracy, was enormous.<sup>69</sup>

An example of the intimidating legal power wielded by the local Indian Agent was the Agent's statutory rights to control all meetings of the Chief and Council elected by each native band, and by controlling all such meetings, to exercise power over developments in the community generally.<sup>70</sup> The *Indian Act* specified that the elected Chief and Council could only meet at a time and place specified by the Agent. At every such meeting, the Agent had the right and duty to chair the meeting. The law specified that the Agent controlled all matters of procedure and form at every such meeting. The law required the Agent to report all proceedings of the meeting to his superiors in Ottawa – who, as noted above, had in mind the strategy to assimilate all natives. And the law set out that at these meetings, it was the Agent's duty to “explain and advise the members [of the council] upon their powers and duties”.

In short, the Indian Agent had the clear power by law to completely dominate every council meeting, and to sideline and intimidate anyone who disagreed with him, or by extension, with what his superiors in Indian Affairs desired. Thus while the Indian Agent could not force a community to vote in favour of a land surrender that his Department favoured, he could completely dominate every Chief and Council meeting, and through Chief and Council processes, over time, manipulate the course of events, maneuver supporters or dissenters into or out of positions of influence, manage the presentation of information, and choose the timing of events (including the timing of surrender votes) to affect their outcomes.

The Indian Agent's power did not stop there. He was also the local justice of the peace, with authority to convict and imprison anyone on the reserve, for vague offences such as

---

<sup>69</sup> Evidence of Joan Holmes, August 18, 2004, p. 17, and August 19, p. 90-91; Evidence of Clifford George, September 10, 2004, p. 150-51; Evidence of Carl Tolsma, February 9, 2005, p. 128; Evidence of Gordon Peters, March 31, 2005, p. 17; Evidence of Ovide Mercredi, March 31, 2005, p. 204, 205, 208.

<sup>70</sup> *Indian Act*, R.S.C. 1927, c. 98, s. 177-178; see Appendix B.

vagrancy and “offences against morality”.<sup>71</sup> His unchecked ability to make life difficult for those he believed were “troublemakers” was very real.

In the surrender votes themselves, it would be the Indian Agent who would largely determine what information community members had available to them about the proposed surrender. “The Indian Agent would be the person who would explain to the community what the proposed terms of the surrender were. And he would be the person who would interpret to the community what their options were.”<sup>72</sup>

There were other parts of the *Indian Act* that operated to pressure or bias Indian Agents themselves in a particular direction, that is, towards dissipating Indian treaty lands, and towards assisting sales to non-native purchasers. On the one side, the Indian Agent would be aware of that part of the *Indian Act* which prohibited the band or any member of the band from hiring a lawyer to legally pursue a claim related to land.<sup>73</sup> So the Agent’s actions in promoting a sale of Indian land were relatively safe from legal attack from the native perspective. On the other side of the equation, however, the *Indian Act* specifically gave any would-be land speculator the right to sue an Indian Agent personally, if the potential purchaser believed he had been denied a proper opportunity to buy native land.<sup>74</sup> So an Agent had good reason to fear incurring the wrath of a speculator interested in scooping some reserve land. These strongly asymmetrical legal risks would tend to make selling Indian land the path of least resistance, and would potentially nudge an Agent towards using his considerable powers more to facilitate land sales than restrict them.

The result of these and other factors was that “you have to recall when you’re dealing with Indian surrenders in this period of time ... that the people were under extreme

---

<sup>71</sup> *Ibid*, s. 152; see Appendix B.

<sup>72</sup> Evidence of Joan Holmes, August 19, 2004, p. 90-91.

<sup>73</sup> *Indian Act*, R.S.C. 1927, c. 98, s. 141; see Appendix B.

<sup>74</sup> *Indian Act*, R.S.C. 1927, c. 98, s. 138.

pressure and influence from Indian agents.”<sup>75</sup> “And during this time period it was very, very difficult for any First Nation to successfully resist pressure to surrender this land.”<sup>76</sup>

In fact, a very controversial land surrender at Kettle Point “managed” by Indian Agent Thomas Paul and culminating in 1927 may have influenced the subsequent Ipperwash surrender in 1928 at nearby Stony Point, in that the Kettle Point surrender seemed to demonstrate to the native community that if the Indian Agent wanted a surrender to go through, it didn’t matter how much community members protested or objected, it went ahead anyway.<sup>77</sup>

### **Taking the treaty lands at Stony Point – the 1928 Surrender**

In 1928, the beach front lands at the Stony Point reserve at Ipperwash, which were part of the lands guaranteed to the aboriginal people in perpetuity by the hundred year old treaty of 1827, passed out of native hands (it is said), and eight years later became Ipperwash Provincial Park. The “surrender” vote in 1928 by which the native community purportedly gave up its ancestral land was managed by Indian Agent Thomas Paul.

The surrender vote in 1928 is a critical event if one is to understand the death of Dudley George, decades later.

The province insisted at the time of the protest and occupation in 1995 that Ontario had “clear title” to the Park lands, a claim which was based squarely on the 1928 surrender. The Interministerial Committee Meeting on September 5, 1995 began its discussions with consideration of the 1928 surrender, and thereafter seemed to be operating on the assumption that the “title of Province is valid” (based on the 1928 surrender). The injunction materials filed in court on the evening of September 6 by the province’s lawyers were premised on the assertion that “the park was part of land surrendered for

---

<sup>75</sup> Evidence of Joan Holmes, September 8, 2004, p. 139-141.

<sup>76</sup> Ibid.

<sup>77</sup> Evidence of Joan Holmes, September 8, 2004, p/ 139-141.

sale by the Kettle Point and Stony Point First Nation in 1928”.<sup>78</sup> Premier Harris emphasized in a public statement on September 8, 1995 that “this is an illegal occupation; they are trespassing on land that belongs to the Crown. This is a matter for the OPP to deal with .... This is clearly land that belongs to the people of Ontario...”.<sup>79</sup>

On the other hand, Dudley George and his fellow protestors in and before 1995, in addition to saying that the Park contained sacred burial grounds, also said again and again, with conviction, that the Park was “their land”.<sup>80</sup> That was, in effect, a denial of the purported effect of the 1928 surrender. The protestors’ claim, on the other hand, was entirely consistent with the recognized status of the land before the 1928 surrender.

The protestors and the then government therefore took diametrically opposing views on the key issue of the 1928 surrender.

It is noteworthy that in the more than ten years since the 1995 occupation, no court of law has yet squarely faced and decided the issue of whether the 1928 surrender was “legally valid”. No court has been asked to. In particular, it is interesting that over the course of eight years, the Harris government did not bring the issue before a court, despite the government’s key reliance on that surrender in the position it took prior to the shooting.

The difference between the protestors and the then government on how they perceived and evaluated the 1928 surrender is to some extent based on important historical aspects of the surrender. In particular, there are several historical factors that cause many natives to view the surrender with suspicion. Some of those historical issues have been reviewed above, but it is worth looking specifically at how they may have specifically affected the 1928 surrender, and thus how they shaped the events surrounding the death of Dudley George, and how they may illuminate possible future courses of action.

---

<sup>78</sup> Exhibit P-551, Motion Record, p. 13, para. 2.

<sup>79</sup> Exhibit P957, p.5.

<sup>80</sup> Evidence of Julie Jai, September 13, 2005, p. 284; Evidence of J.T.S. McCabe, September 29, 2005, p. 78-79.

One reason for suspicion about the 1928 surrender on the part of natives is that the 1928 Stony Point surrender took place against the backdrop of the federal government's then long term strategy of Indian assimilation, as discussed earlier. If the explicit and primary goal of the government at the time was "to continue until there is not a single Indian in Canada that has not been absorbed into the body politic, and there is no Indian question," as stated to Parliament by the head of the Indian Affairs bureaucracy in 1920, just a few years before the surrender, why should the surrender process be trusted at all as anything other than a charade? The government was clearly motivated to undermine the treaty guarantees of permanent land rights, not to protect them, and therefore, ensuring that a land surrender vote was informed or fair was contrary to what the government clearly, in general, wanted, which was shrinkage and disappearance of an Indian land base. So, according to that assessment, it would be foolish to trust the surrender process.

A second reason for questioning the 1928 surrender is the complete domination that the Indian Agent of those days exercised over the native community, as reviewed earlier. If the local Indian Agent had such clear and overwhelming power in so many areas of native community life, including the clear legal powers in the *Indian Act* to completely dominate the elected native leadership, why would one expect a surrender vote to be completely different, and be a valid exercise in real community choice? If the Indian Agent had the overwhelming power to control events on the reserve, including through manipulation and maneuvering where necessary, why would one expect a surrender vote to be anything other than an outcome obtained through manipulation or pressure or both?

A third reason for skepticism about the 1928 surrender is the tendency for Indian Agents to be linked to local land-hungry entrepreneurs. If the local Indian Agent spends his weekends curling with local real estate agents and beachfront developers, how neutral will he be in advising the natives in his care about a land sale vote?

Concerns such as the above have fueled a deep skepticism amongst natives about the alleged community vote and approval of the sale of land in the 1928 surrender. The

skepticism has often passed over into outright rejection of the surrender as being utterly tainted and illegitimate.

In her testimony before the Inquiry, Bonnie Bressette, a former Chief and long time councilor of the First Nation, was asked “Do you, today, as a leader in your community, believe that that 1928 surrender vote occasioned as it was by the Indian Agent at the time, was a fair and valid transfer of those treaty lands?” She replied “No, I don’t”. Question: “Do you today, as a leader of your community, accept that the 1928 surrender about which we’ve talked was morally and politically legitimate or correct?” She replied: “The land is our life. Our life here today and it’s life for the future generations. .... But that 1928 surrender, as far as I’m concerned, was just another way – another rip off that we have to address.”<sup>81</sup>

The idea of putting these concerns to a court, to test and determine the validity of the 1928 surrender in that way, has its own fundamental flaws. How can a court be expected, in testing the fairness of a particular surrender, to weigh in the scales the possible effect of the government’s then clear and determined long term strategy of making Indians disappear? How can a court deal with the question of whether a community vote thoroughly dominated by an Indian Agent was legitimate, when the Agent’s domination was fully mandated by the law of the time? How can a court properly assess whether an Indian Agent’s advising a native community on a land sale was fair and adequate, when the Agent’s weekend chumminess with the real estate agents who want to buy the land can never be laid before a judge because there is never hard evidence?

Concerns such as the above may account for the negative response of some of the protestors to the suggestion sometimes put to them that they should bring their concerns to court.

---

<sup>81</sup> Evidence of Bonnie Bressette, September 22, 2004, p. 92-93. See also testimony of Roderick (Judas) George, November 24, 2004, p. 21.

Nor is a public inquiry such as this one the right place to do what is normally a court's job, which would be to decide whether the 1928 surrender did or did not, as a matter of law, validly terminate (from the point of view of the non-native legal system) the clear pre-existing native treaty right of exclusive possession of those lands. Indeed, it may be that on the question of the 1928 surrender the courts are simply not the best method of dealing with the issue at all, given its multidimensional aspects, including historical.

There are some indications that the government's long term assimilation strategy, and the Indian Agent's overwhelming power over the community, and the Indian Agent's social connections to local land-hungry entrepreneurs, did in fact have some effect on the basic fairness, and therefore the present day legitimacy, of the 1928 surrender, in both native and non-native eyes.

One would expect, when a community publicly considers whether to sell off ancestral lands guaranteed by treaty that there would be some discussion of the alternative options, or of the possible negative aspects of selling the land. However, there is no evidence that the Indian Agent, in arranging and supervising the 1928 surrender at Stony Point, ever discussed with the Chief and Council, or with the community at large, any advantages of holding on to their treaty lands for the long term, or any possible positive options for the future regarding the Stony Point shore lands other than surrender and sale, or even the possible future value of the beach front for cottages, even though such an option was an obvious possibility.<sup>82</sup> If the Indian Agent made any efforts in 1928 to assist the Kettle and Stony Point community towards an informed and considered decision, there is no evidence of it.

There is some evidence in the opposite direction. In the first letter which Indian Agent Paul writes to his superiors on the topic of a possible land surrender of the beach front at Stony Point, dated June 15, 1928, Paul recommends the sale, because the land is "white sand and from an agricultural point of view is absolutely worthless".<sup>83</sup> It would be hard

---

<sup>82</sup> Evidence of Joan Holmes, August 19, 2004, p. 92-93.

<sup>83</sup> Letter of Thomas Paul, June 15, 1928, cited in the expert report of Joan Holmes, p. 42 note 213.

to come up with a more breathtaking instance of tautological and irrelevant analysis. The obvious point that some of Ontario's best beach frontage might have some significant longer term economic value to the native community as something other than agricultural land would have merited, one would have thought, at least some consideration by the community's officially mandated adviser – except, possibly, if that adviser had no interest in the long term future of the community in any case, since the community (it was thought) was doomed to disappear over time, with official government encouragement and pressure towards that end.

The same letter by Indian Agent Paul also seems to give credence to the concern about the domination exercised over the native community by Indian Agents in the conduct of surrenders. In that letter, Agent Paul is recommending that the application for a beachfront sale receive favourable consideration, but there is no indication that Paul has discussed the application yet with any of the First Nation's Chief or Councillors. In other words, the Indian Agent seems to be approving in principle a particular sale of reserve land, without even bothering to discuss it with native leadership. In fact, the first mention of any consultation by Agent Paul with the community on this possible sale occurs more than a month later in a letter of his on August 10, in which he says "I talked this matter over with the Chief and Council at their regular monthly meeting, which was held on the 9<sup>th</sup>."<sup>84</sup> This Indian Agent's control without consultation may well be an example of precisely the kind of Indian Agent domination which the government deliberately institutionalized, and which would support a suspicion that the 1928 surrender was not in fact a genuine or legitimate native community choice.

The third reason for skepticism mentioned above, the tendency of Indian Agents to be linked to local land-hungry entrepreneurs, also seems to be operating in relation to the 1928 surrender. Indian Agent Paul seemed to be close acquaintances with a number of prominent local citizens, citizens who were motivated to influence him towards sale of native reserve land at less than maximum benefit to the Indians. At the time of the 1928 land surrender, which Paul managed, Paul sat on a Board of Directors with one W. T.

---

<sup>84</sup> Letter of Thomas Paul, August 10, 1928 cited in the expert report of Joan Holmes, p. 42 note 214.

Goodison,<sup>85</sup> a very prominent local industrialist who was also the local Member of Parliament, and who lobbied the government in favour of the intended purchaser of the reserve lands, W. J. Scott. Also on the same Board of Directors with Paul was John Cowan, a lawyer representing W. J. Scott in the Stony Point purchase. To top things off, W. J. Scott at the time was mayor of Sarnia, and thus of some influence. The fact that the Indian Agent appeared to be so associated with those seeking to purchase his charges' land is not definitive on anything, but it can raise legitimate questions.

One's potential skepticism about how all of the above areas of concern might have tainted the 1928 surrender is only increased when one looks at the actual price obtained for the land in the 1928 surrender, and the process by which the price was arrived at. The first offer from the would-be purchaser Scott was low – but Paul immediately, and without any independent valuation, recommended it to Indian Affairs.<sup>86</sup> When a Departmental official noted that the price was much lower than a comparable nearby sale, and that it was not supported by any valuation, Paul immediately changed his position on the price. A detailed examination of the price issue is not appropriate at this point, but overall, when historical expert Holmes was asked in evidence at the Inquiry about the price aspect of the surrender and sale (Q: “This was an incredible rip-off, in any sense, right?”), she replied “Well, you know, in a Court of Law I don't use colloquial terms like rip-off, but I would say that the person who bought that land and then sold it, made a considerable profit, yes.”

The demonstrably low price obtained for the land in the 1928 surrender (it is suggested) may well be one effect of all of the factors described above – the official government policy towards assimilation (why maximize community benefit when the community is destined to disappear?), the domination by the Indian Agent (who then is essentially unaccountable, including for receiving a poor price), and the Agent's coziness with local entrepreneurs (why push for a hard bargain against your friends?).

---

<sup>85</sup> “The Industrial Mortgage & Savings Company: Report of the 38<sup>th</sup> Annual Meeting of the Shareholders of the Company”, Sarnia Canadian Observer, January 21, 1928; see Appendix B.

<sup>86</sup> Letter of Thomas Paul, June 15, 1928, cited in the expert report of Joan Holmes, p. 42, note 213.

To the above three types of concern should be added a fourth, and that is the fact that Indian Agent Paul apparently put himself in personal and financial conflicts of interest with respect to the 1928 surrender, conflicts so serious that under the laws of the time his continued role of Indian Agent ought to have been forfeited, with the result that the 1928 surrender would probably never have been completed.

At the time of the surrender, Thomas Paul was both a Director and a shareholder of a finance company known as Industrial Mortgage and Savings Company (which around this time changed its names to Industrial Mortgage and Trust Company). Thomas Paul's brother was the Managing Director.<sup>87</sup> Shortly after Paul had conducted the community vote on the surrender for sale to W. J. Scott, but before the sale had been completed, Thomas Paul's brother W. R. Paul wrote a letter dated March 19, 1929 to another member of IMSC's Board, recommending that the IMSC partially finance the purchase of the Indian lands with a mortgage loan to Scott.<sup>88</sup>

In that letter, W. R. Paul (the Indian Agent's brother) states that he has checked out the facts on the surrender with his brother Tom (the Indian Agent), "which corroborates everything". W. R. Paul suggests that it would be a safe loan, and that there is a good chance that "they [Scott] will be able to clean up a considerable sum of money". W. R. Paul further offers to that "I could have Tom meet you here and show you the dope that he has on the transaction."

The letter appears to show that the Indian Agent was using the information obtained as Agent to assist his brother and a corporation of which he was a director and shareholder to obtain a profitable loan on the very real estate sale he was managing, as a fiduciary, for the native band.

---

<sup>87</sup> "The Industrial Mortgage & Savings Company: Report of the 38<sup>th</sup> Annual Meeting of the Shareholders of the Company", Sarnia Canadian Observer, January 21, 1928; The Industrial Mortgage & Savings Company, 38<sup>th</sup> Annual Report, December 31<sup>st</sup>, 1927; see Appendix B.

<sup>88</sup> Exhibit P-1021; see Appendix B.

Eventually the loan to W. J. Scott was approved and the mortgage loan by IMSC (IMTC) was in fact made to W. J. Scott, the speculative purchaser of the surrendered Indian lands. A mortgage was registered on title as security.<sup>89</sup> Thomas Paul, the Indian Agent, thus obtained an indirect interest, as a Director and shareholder of the corporation holding the registered mortgage, in the very lands he was managing on behalf of the Indians, all for purposes of the profit of his corporation – on a sale price which he must have known was far too low, since the purpose of the loan was precisely to finance speculation!

The *Indian Act* prohibited such dealings by Indian Agents, and set out serious sanctions. S. 60 prohibited an agent from becoming “directly or indirectly ... interested in” the sale of any Indian land in his division.<sup>90</sup> Paul appears to have done just that, by acquiring, indirectly through the corporation of which he was a director and shareholder, a mortgage interest in the lands, for purposes of a commercial loan.

The *Indian Act* specifies that “every such ... interest ... shall be void”. The loan, it would appear, was invalid – which, if Paul business associates had known, probably would have ended the financing of the purchase, and possibly the purchase.

Even more seriously, the *Indian Act* stated in s. 125 that every agent who “directly or indirectly ... becomes ... interested in” any Indian lands being sold in his division “shall forfeit his office”.<sup>91</sup> It appears that Agent Paul’s continuation as Indian Agent, during which time he completed the sale of the Ipperwash lands over the course of many months, was probably unlawful. In other words, if the law had been followed, the sale of the lands that became Ipperwash Provincial Park would not have been completed.

In short, the Indian Agent appears to have been in a series of tangled and compromising personal and financial relationships in connection with the 1928 surrender, some of which were probably illegal and would probably have voided or stopped the 1928 surrender if they had been disclosed. In essence, the federal government’s agent, whose

---

<sup>89</sup> Mortgage to the Industrial Mortgage and Trust Company, dated April 22, 1929; see Appendix B

<sup>90</sup> *Indian Act*, R.S.C. 1927, c. 98, s. 60; see Appendix B.

<sup>91</sup> *Indian Act*, R.S.C. 1927, c. 98, s. 125.

job it was to protect the Indians, was secretly financing the land purchase by a local real estate agent and land speculator, who also happened to be the mayor of Sarnia, and thereby earning money for himself, his brother, and his corporation. In doing so, he appeared to know that he was allowing the land to be sold by the natives for much less than what it was worth, and that he was financing and assisting speculation on that very land. The root of the province's present claim to the Park, therefore, appears to rest on a swindle and a breach of the law.

### **Obliterating the rest of the Stony Point Reserve under the War Measures Act**

This is how 14% of the Stony Point reserve disappeared. Soon, the government would come back for the rest of it. World War II happened and the Department of National Defence set its sights on the Stony Point reserve as its preferred infantry training camp in the region. The military had used another property, called Pine Hill Camp, as a seasonal military training camp, but because it would be costly to run a water pipeline up to that camp, the military looked at the possibility of taking over the Stony Point lands.<sup>92</sup>

The Department of National Defence tried to secure a surrender, but this time it was too much, and the Band very quickly objected to the proposed taking, noting the Reserve was held under treaty to be expressly reserved to “the said nation of Indians and their posterity at all times hereafter for their own exclusive use and enjoyment.”<sup>93</sup>

Indian Agent McCracken was instructed to schedule the surrender vote and arrange transportation for band members in such a way as to encourage a “favourable vote”, but he proved not as adept at securing a positive surrender vote as was Thomas Paul. At the 1942 vote, the proposal was overwhelmingly denied.

---

<sup>92</sup> Evidence of Clifford George, September 10, 2004, p. 163.

<sup>93</sup> Holmes, “Historical Background,” p. 48.

Following the negative vote, the Inspector of Indian Agencies and Reserves, who was supposed to be looking out for the Indians' best interests on behalf of the government, indicated his ignorance of the attachment that they had to their land, and the commitments made to them in the Treaty of 1827:

[T]he various reasons given [for denying the request to surrender the Reserve land...] hardly seem adequate for not surrendering for the military purpose. These reasons covered: "We have our land so long as the sun shines and the grass grows", "It is our heritage and we must retain it," "In the last surrender we did not get enough money."<sup>94</sup>

The Inspector was not alone in his ignorance. It was typical for Indian Affairs officials at that time to not be particularly cognizant or aware of commitments made at the time of treaty, or to understand the history of the land or the peoples they were dealing with.<sup>95</sup>

The military took the land anyway. It invoked the *War Measures Act* and seized the land. The fact that the land had never been ceded to the Crown was irrelevant, as the Canadian government at this time was not in the habit of diligently honouring treaties and aboriginal sovereignty. As the government's representatives said to Beattie Greenbird at the time:

[R]egardless of any so-called treaty obligations, you have been treated fairly and generously for upwards of one hundred years.

I will see to it, as will I assure you my successors in office, that your band and your returning sons will be fairly treated in the period of readjustment which must inevitably follow the successful issue of the struggle in which Canada is engaged.<sup>96</sup>

Mrs. Greenbird must have wondered what he was talking about when he referred to

---

<sup>94</sup> Holmes, "Historical Background," p. 50; Evidence of Joan Holmes, August 19, 2004, p. 122.

<sup>95</sup> Evidence of Joan Holmes, August 19, 2004, p. 122.

<sup>96</sup> Holmes, "Historical Background," p. 52.

fairness and generosity, as that was certainly not her experience. But if the Crown's actions prior to the war were thought to be fair and generous, the promise that the band and its returning sons would be treated fairly after the war must have been ominous and foreboding.

So while Cliff George was overseas fighting the Nazis, the Canadian government was invoking its own racist policies, and dispossessing natives of their treaty lands. As Cliff George would say, he found the real enemy when he got home.

After bravely serving his nation on the front lines against the Nazi regime, Cliff George wearily made his way home. He had been away from his family and from his land for about 4 years,<sup>97</sup> and was glad to return home. As he made his way up the road to Stony Point, he noticed that things were out of place. He may have wondered if he was in the right place, but there was no mistaking that this was his land. Only, his house was missing. Instead there was an army camp there. This was all very confusing for Cliff George. Maybe, he thought, he'd wake up and this would all be a nightmare. But it wasn't.

The war from which Cliff had just returned ran its course in four years. But Cliff would spend the rest of his life fighting another battle – to get his land back.

Cliff George oriented himself to his new surroundings and his new reality. He found his parents living on the Kettle Point reserve, where they and 15 other families had been forced to move to after the military appropriated the unceded Stony Point lands.<sup>98</sup>

---

<sup>97</sup> Clifford George was recruited, trained and deployed to Europe in 1941 (Evidence of Clifford George, September 10, 2004, p. 28-29). Although he was unable to provide the exact date of his return to Canada from the Second World War, he thought it would have been July 1945 (Evidence of Clifford George, September 10, 2004, p. 57).

<sup>98</sup> Holmes, "Historical Background," p. 52.

## ***Phase IV – Fifty more years of frustration***

### **Displacement, Disaster**

The forced integration of the Kettle and Stony Point peoples, and squeezing another 16 families onto the limited land at Kettle Point, caused great disruption and tension within the community.<sup>99</sup> The people of Stony Point deeply resented that their Reserve had been taken from them, and that their lands were reduced in size from 40 acres each to 2 or 3 acres, on which they were expected to sustain a livelihood.<sup>100</sup> Many were also upset by the fact that the Stony Point people displaced the so-called “white” residents of the band – in many cases, former band members who had lost their registered Indian status because of the racist *Indian Act*.<sup>101</sup> The ill feelings caused by the forced displacement and amalgamation persisted for decades, even up to the present day, and has prevented the communities to work hand in hand for their mutual interests.<sup>102</sup>

As much as Dudley’s death has been a terrible tragedy, so has been the turmoil caused by the fallout from the taking of treaty Reserve lands. But while Dudley’s life cannot be restored, the land can be, and once the people have their land back they can restore their relationship as well.

This was the human cost of appropriating the lands. In terms of the financial consideration, the government paid \$15 per acre for the land that was appropriated, and paid a total of \$16,400 for moving costs and compensation for improvements.<sup>103</sup> It provided no help whatsoever to those who were displaced and forced deeper into poverty.

---

<sup>99</sup> Holmes, “Historical Background,” p. 53; Evidence of Joan Holmes, August 18, 2004, p. 128-129.

<sup>100</sup> Holmes, “Historical Background,” p. 53; Evidence of Joan Holmes, August 18, 2004, p. 164.

<sup>101</sup> Holmes, “Historical Background,” p. 52-53; Evidence of Joan Holmes, August 18, 2004 p. 151.

<sup>102</sup> Evidence of Joan Holmes, August 19, 2004, p. 148.

<sup>103</sup> Evidence of Joan Holmes, August 18, 2004, p. 148-149.

At least the land speculators were taken care of. The government paid \$29,000 for 260 acres, and another \$2,500 for a 1.2 acre parcel that had some development upon it.<sup>104</sup> That works out to \$120 per acre, which is eight times what the Band received.

Beattie Greenbird described some of the sentiments felt by those displaced by the appropriation:

No wood to sell as there never was much work around here and now misery is handed to them and hunger because their usual means of livelihood is taken away from them by force but some of them are overseas and some training in Canadian soil, yet while their backs are turned their beloved reservation is taken right from under their parents' feet. And what are they fighting for? For to save Canadian land and theirs besides....

The animal has laws to protect them not to be disturbed or molested on the ground. Us Indians has no law. We are carried down below animals.<sup>105</sup>

## **Dishonour - Ongoing refusal to return the stolen land**

The war ended, but the military continued to hold onto the reserve lands. It was never legal for the military to appropriate unceded Indian land in the first place, but its continued refusal to return the land after the war, even though the government had itself stated that the land would be returned when no longer needed, was a further travesty. This is unquestionably a travesty of justice and a breach of the Treaty of 1827 as well as the Treaty of Niagara.

For more than 50 years, the Stony Point people protested and sought the return of the land, and for more than 50 years, the military rebuffed their quite legitimate complaints.

---

<sup>104</sup> Holmes, "Historical Background," p. 54; Evidence of Joan Holmes, August 18, 2004, p. 146.

<sup>105</sup> Evidence of Joan Holmes, August 18, 2004, p. 156-158.

The Stony Point people even had a sympathizer in the Indian Affairs Minister Jean Chrétien, who became interested in the issue and warned in 1972 that:

It seems to me that the Indian people involved have a legitimate grievance. They did not agree to surrender the land in the first place, but it was appropriated in the national interest prevailing in 1942. It is now 1972, and they have not got it back. Yet they desperately need it to improve the Band's social and economic position. In addition, there is their deeply rooted reverence for land and their tribal attachment to it.

...

They have waited patiently for action. There are signs, however, that they will soon run out of patience.... They may well resort to the same tactics as those employed by the St. Regis Indians at Loon and Stanley Islands in 1970 – to occupy the lands they consider to be theirs....<sup>106</sup>

Slight progress is made in the 1980s when a partial settlement is reached and some compensation is agreed upon, but the people still do not get their land back.

## **The reclamation project**

At the same time that Jean Chretien was dealing with this issue, which concerned the majority of the Stony Point reserve lands, the Stony Point people were also making it known that the Ipperwash Park lands were part of their treaty reserve lands too and that they wanted those lands back because they were never validly or fairly surrendered.<sup>107</sup> Chief Shawkence said at that time that the Band probably would in the near future lay a claim to the Park.

The Ministry of Natural Resources subsequently became concerned as “it [was] clear that Indian action on this matter [was] imminent.” Accordingly MNR decided that, “[h]aving

---

<sup>106</sup> Holmes, “Historical Background,” p. 60; Evidence of Joan Holmes, August 18, 2004, p. 186-193.

<sup>107</sup> Inquiry Documents No. 1003210 and 1003314.

been forewarned, MNR should secure a legal and historical analysis of this situation as soon as possible.”<sup>108</sup>

No formal land claim on the Park ended up being pursued at that time. This was not because the issue was not important to members of the First Nation, but because there were so many issues facing the Band at that time.

Probably because of the sheer size of the parcels in question (over 2400 acres for the Army Camp lands compared to 109 acres for the Park lands), the return of the Army Camp lands remained the main focus of the Stony Points efforts for the next two decades. However, the Ipperwash Park lands were never forgotten, and in due course steps would have to be taken to recover that land and make the Reserve whole again.<sup>109</sup>

The passing of years did not make the wrongful taking of land any easier for the Stony Point people to accept, nor did it make it right.<sup>110</sup> For years, the Stony Point people tried in vain to get the federal government to listen to them and to return the Stony Point reserve which was illegally appropriated in 1942. There were letters, petitions, information pickets, protests, even a march to Ottawa, all to no avail.

The government said it still needed a cadet camp in the region. It also said that it had polluted the lands so badly with hazardous munitions that it could not return the land. The government dishonourably turned its back on the fact that the appropriation of the reserve was a clear breach of the Treaty of 1827 and the Treaty of Niagara, and that its failure to return the land after the war was a breach of the terms of its own legislation purportedly authorizing the appropriation.

What option did the Stony Point people have, then, other than to simply move back onto their treaty lands after 50 years of being shunted by the federal government? That is what a group of them in fact did in May 1993, eventually expanding their occupation to the

---

<sup>108</sup> Inquiry Document No. 1003315, p. 3.

<sup>109</sup> Evidence of Elizabeth Cloud, March 7, 2005, p. 69.

<sup>110</sup> Evidence of Ovide Mercredi, April 1, 2005, p. 74.

built-up area of the Army Camp in 1995, until the army packed up and left. Finally, after 50 years of frustration, the Stony Point people had their land back – at least, most of it.

The reclamation project remained incomplete, as there remained the matter of the northwest 109 acres of the reserve that was taken from them in a shady land deal and turned into a Provincial Park. They waited until Labour Day, September 4, 1995 when the Park closed for the season, and walked into the Park, or as Dudley and others called it, “our land.”

They went into the Park because they believed it was the land of their people, and was their burial ground.<sup>111</sup> They knew that the Park was built on land that had been guaranteed to them forever in a Treaty and had never been ceded.<sup>112</sup> They understood that there were some shady land deals many years ago that took the land away.<sup>113</sup> And they knew the burial places of their ancestors had been desecrated. They decided that had to stop. After more than 50 years of having the Band’s grievances ignored, enough was enough. It was time to do what it took to get someone to listen.<sup>114</sup>

---

<sup>111</sup> Evidence of Marlin Simon, September 30, 2004, p. 82; Evidence of Christopher Coles, August 17, 2005, p. 58-59; Evidence of Tim McCabe, February 13, 2006, p. 160-161; Evidence of Bonnie Bressette, September 22, 2004, p. 14-15.

<sup>112</sup> Evidence of Kevin Simon, December 2, 2004, p. 143-44; Evidence of Warren George, December 9, 2004, p. 142-143.

<sup>113</sup> Evidence of Marlin Simon, September 30, 2004, p. 83-85, 95-96.

<sup>114</sup> Evidence of Bonnie Bressette, September 22, 2004, p. 14-15, 155-56.

## CHAPTER 3: A SACRED BURIAL PLACE

Few things are as sacred to First Nations peoples as the burial places of their ancestors. Anishnaabeg are attached to their lands largely because they are attached to the graves of their ancestors. The Living are obliged to care for the Dead, and so proximity to ancestral burial grounds is essential.<sup>1</sup>

The Dead are never entirely gone from the world. They remain alive in the spirit world, and their physical remains retain a spiritual essence which requires ongoing respect.<sup>2</sup> After death, they still need to be fed, visited, and feasted. The Living have an obligation to ensure that their relatives are buried in a proper manner, and in the proper place<sup>3</sup> – the proper place being not where they fell, but where they belonged.

The Anishnaabeg belief is that the souls of their departed ancestors are attached to their bones. As such, Anishnaabeg treat the bones of their ancestors with great reverence, and abhor the disturbance of graves.<sup>4</sup> This has been their way since time immemorial, and will be their way evermore. This explains why the Chief and Council made a point of asking that the burial ground in Ipperwash Park be fenced off and preserved when it was discovered in 1937. It is also half the reason why the Stony Pointers occupied the Park in September 1995 – to reclaim the burial grounds of their ancestors that had been desecrated.

---

<sup>1</sup> Johnston, "Connecting People to Place," p. 24.

<sup>2</sup> Johnston, "Connecting People to Place," p. 27.

<sup>3</sup> Johnston, "Connecting People to Place," p. 24.

<sup>4</sup> Johnston, "Connecting People to Place," p. 27-28.

## ***The Ipperwash burial evidence***

### **1937 – A reasonable request: protect the burial ground**

In 1937, after bones were discovered during construction of the Provincial Park, Chief and Council of the First Nation made a point of passing a resolution asking that the Department of Indian Affairs request the Ontario Government “to preserve the old Indian burial grounds on the Government park at Ipperwash Beach and have their Engineer mark out and fence off the grounds so that they will be protected.”<sup>5</sup>

This was a reasonable request, and one that the First Nation had every reason to believe would be honoured by the Crown.

The Acting Indian Agent, J. C. Trenouth, supported this request which he forwarded to his superiors at the Department of Indian Affairs, stating:

When clearing out this park recently the engineer discovered an old Indian burial ground and stated that if the Band would make a request to the Provincial Government, he was sure they would be glad to mark off and fence the plot. The Council would like this done.

I would be pleased if you would advise me if the Department will make this request or will I do so direct.<sup>6</sup>

The Secretary of Indian Affairs followed up with the Ontario Department of Lands and Forests and requested that the provincial government do its part to preserve the old Indian cemetery, stating:

---

<sup>5</sup> Holmes, “Historical Background,” p. 55; Evidence of Joan Holmes, August 18, 2004, p. 59-60.

<sup>6</sup> Inquiry Document No. 4000378; Holmes, “Historical Background,” p. 55; Evidence of Joan Holmes, August 18, 2004, p. 62.

Dear Sir.

In connection with the work at present being carried out under the direction of your Department at Ipperwash Beach, near Sarnia, I have to inform you that the Indians of the Kettle and Stony Point Band are much concerned in the preservation of the old Indian cemetery which, I understand, is located within the territory now being developed as a park.

On the 13th of this month the Council of the Kettle and Stony Point Bands passed a resolution requesting this Department to bring the matter to your attention with a view to having this old Indian burial ground preserved intact and properly fenced. The request will, I am sure, appear to you as entirely reasonable and I should be glad if you would see that the necessary action is taken with a view to meeting the wishes of these Indians.

I should be glad to have a favourable reply at your earliest convenience in order that the Indians may be so advised.<sup>7</sup>

The Deputy Minister of Lands and Forests stated that he did not yet have all of the facts, but assured that he would “do [his] best to make such arrangements as will respect the natural wishes of the Indians.”<sup>8</sup> However, he apparently did nothing at all.<sup>9</sup> Nobody ever took steps to fence off and preserve the burial ground in the park.<sup>10</sup> This was certainly not reflective of “the natural wishes of these Indians.” As for the letters themselves, they were buried in the Provincial archives without the First Nation ever having received copies.

---

<sup>7</sup> Inquiry Document No. 4000379; Evidence of Joan Holmes, August 18, 2004, p. 64-65.

<sup>8</sup> Inquiry Document No. 4000380, p. 55; Evidence of Joan Holmes, August 18, 2004, p. 66-67.

<sup>9</sup> Evidence of Joan Holmes, August 18, 2004, p. 67, 88.

<sup>10</sup> Evidence of Leslie Kobayashi, October 26, 2005, p. 11-12.

## 1940 to 1950 – Bones and more bones

Indignities to the Indian burials in Ipperwash Provincial Park continued for decades thereafter. First, there is an oral history recording that in about 1942, during the construction of the reservoir in the Park, masses of Indian bones were found and removed from the sand hills where construction was taking place.<sup>11</sup> Second, an old aboriginal skeleton was found buried in the sand in 1950.

In 1950, staff working in Ipperwash Park discovered an old aboriginal skeleton after strong winds, or perhaps the spirits, blew away the sand covering the body. Opal Dale, (wife of Ipperwash Park Superintendent Arnold Dale) photographed the remains.<sup>12</sup> As for the remains themselves, the skull sat on Arnold Dale's desk for several months.<sup>13</sup> The rest of the skeleton was apparently abandoned in the Park.<sup>14</sup> Nobody told the Kettle and Stony Point First Nation about this discovery at the time.<sup>15</sup> Nothing was done as a result of that burial discovery to identify whether the body was part of a larger site and if steps needed to be taken to mark and preserve the site. The skull was eventually sent to Wilfrid Jury of the London Museum of Archaeology at the University of Western Ontario, but tragically it has been lost.<sup>16</sup>

Marilyn Dulmage, the Park Superintendent's daughter, also recalls that her father showed her a burial site on the north side of Dufus Creek east of the new bridge on a meandering curve of the creek.<sup>17</sup> Clearly, employees of the Provincial Government were well aware of the existence of burial grounds in the Park at the middle of the century, and they were

---

<sup>11</sup> Evidence of Joan Holmes, September 8, 2004, p. 95; Exhibit P-909, Inquiry Document No. 8000186.

<sup>12</sup> Inquiry Document No. 4000408; Exhibit P-909, Inquiry Document No. 8000186, p. 2; Holmes, "Historical Background," p. 55; Evidence of Joan Holmes, August 18, 2004, p. 67-85.

<sup>13</sup> Exhibit P-909, Inquiry Document No. 8000186, p. 2; Exhibit P-907, Inquiry Document No. 3001562, p. 3.

<sup>14</sup> Exhibit P-909, Inquiry Document No. 8000186, p. 2.

<sup>15</sup> Holmes, "Historical Background," p. 85; Exhibit P-907, Inquiry Document No. 3001562, p. 3; Evidence of Leslie Kobayashi, October 26, 2005, p. 17-18.

<sup>16</sup> Exhibit P-907, Inquiry Document No. 3001562, p. 3; Exhibit P-909, Inquiry Document No. 8000186, p. 2; Inquiry Document No. 4000408, p. 1.

<sup>17</sup> Exhibit P-891, Inquiry Document No. 1012501, p. 2.

clearly aware that there was more than one burial site. By the early 1970's though, this knowledge seems to have been lost.

## **1972 – Hamalainen Archaeological survey**

In 1972, archaeologist Peter Hamalainen was commissioned to do a survey of archaeological resources in Ipperwash Provincial Park. His search turned up no evidence of aboriginal burials. He stated in his report that local informants had advised that no archaeological material had ever been found in the Park,<sup>18</sup> but he was obviously not speaking with the right local informants.<sup>19</sup> He was speaking with people who had no idea that Opal Dale found bones in 1950; who had no idea that there was an exchange of correspondence in 1937 referring to the discovery of a burial ground by the province's engineer at the time; and who were not even connected to the oral history of the burial findings in the Park.<sup>20</sup>

Ironically, of all of the records and history of burial findings in the Park, Hamalainen's report, which states that there is no evidence of burials in the Park, would become the document that MNR and the OPP would rely upon when the burial ground assertions again arose in the summer of 1995. They accepted Hamalainen's word at face value and did not bother to look any further until after Dudley died.

Unfortunately, the OPP and MNR were not aware that Hamalainen's report was seriously problematic and could not be relied upon for the proposition that there were no burial sites within the Park.<sup>21</sup> As archaeologist Paul Lennox stated many years later: "Surveys undertaken at that time [i.e., 1972] were opportunistic and judgmental, not systematic nor exhaustive, and are not reliable in their conclusions by today's standards."<sup>22</sup>

---

<sup>18</sup> Holmes, "Historical Background," p. 56; Exhibit P-17.

<sup>19</sup> For example, Tina George (January 19, 2005, p. 52-55); Mike Cloud, (November 8, 2004, p. 178-180); Glenn George (February 1, 2005, p. 39-40) all shared oral history about the burial ground in the park at this Inquiry.

<sup>20</sup> Holmes, "Historical Background," p. 86.

<sup>21</sup> Evidence of Leslie Kobayashi, October 25, 2005, p. 269-270; Inquiry Doc. No. 1012369

<sup>22</sup> Exhibit P-905.

## **1975 – The resurrection and reburial of burial ground archives**

Hamalainen was obviously also not aware of the archival evidence of the burial ground in the Park, as recorded in the 1937 series of correspondence. Those letters would remain buried for another three years, until MNR researcher Daryl Smith chanced upon them in 1975 while looking up old Ipperwash records in the archives.

On January 16, 1975, Daryl Smith wrote to District Manager Ray Fortner to the Park Superintendent describing his findings and noting their potential significance.<sup>23</sup> It appears that nothing was ever done beyond that by anybody.

The protocol in 1975 was that information of this nature would, at the very least, be passed onto the Park Superintendent, and also, if appropriate, higher up the chain. The Park Superintendent would make an initial determination as to what should be done, and, where warranted, would share information about burial sites in the Park with the affected First Nations.<sup>24</sup> In 1975, however, none of this was done except for the notification of the District Manager. Nobody apparently bothered to consult the First Nation.<sup>25</sup> Nobody apparently bothered to get to the bottom of why there was no fenced-off burial site in the Park when that had been requested by the First Nation in 1937.<sup>26</sup> Somebody, maybe several people, simply did not do their job.<sup>27</sup>

## **1993 and beyond – Ongoing requests regarding Park burial ground**

The oral history about burials in Ipperwash Park was not known to all of the members of the Kettle and Stony Point First Nation, but it was certainly known by many of the descendants of those displaced from Stony Point. During meetings after the shooting of

---

<sup>23</sup> Exhibit P-822, Inquiry Document No. 1008093; Evidence of Ron Vrancart, October 27, 2005, p. 224-28.

<sup>24</sup> Evidence of Ron Vrancart, October 27, 2005, p. 218-221.

<sup>25</sup> Evidence of Ron Vrancart, October 27, 2005, p. 228.

<sup>26</sup> Evidence of Leslie Kobayashi, October 26, 2005, p. 12; Evidence of Ron Vrancart, Oct 27, 2005, p. 235.

<sup>27</sup> Evidence of Ron Vrancart, October 27, 2005, p. 223.

Dudley George, there were multiple occasions where people from the community mentioned that there were burials taken out of the pumphouse area during construction.<sup>28</sup>

It is impossible now to know how often Stony Point members raised their concerns about the burial ground in the Park prior to 1993. In the early days, such things tended not be recorded by the Indian Agent,<sup>29</sup> and even more recently, it is apparent that whenever information about a burial ground in the Park arose, it was ignored.

Starting in 1993, however, there are several records of Stony Pointers asserting that the Park contained sacred burial sites. Maynard T. George stated in a letter in May 1993 that “[s]ome of the lands within Ipperwash Park are sacred burial grounds. These areas must be recorded and documented by our First Nation’s structure.”<sup>30</sup> He and others repeated these assertions to MNR and OPP officials right up to the time of the occupation of Ipperwash Park in September 1995.

In June 1993, Maynard T. George repeated the burial ground information to Park Superintendent Les Kobayashi during a meeting.<sup>31</sup> Later that year, in December, after the Stony Point people who had occupied the Army Camp finally had the ear of the federal government, they made a point of asking for “an investigation as to who is responsible for safeguarding the cemetery in the Provincial Park.”<sup>32</sup>

There were further assertions in August 1995 when the issue came directly to the attention of police officers and Native Affairs staff in Toronto. At that time, OPP officers met with Glenn George, and he raised the issue directly with them. Afterward, the OPP

---

<sup>28</sup> Exhibit P-910, Inquiry Document No. 1012520; Exhibit P-911, Inquiry Document No. 3001695; Evidence of Leslie Kobayashi, October 26, 2005, p. 26-28.

<sup>29</sup> Evidence of Darlene Johnston, September 8, 2004, p. 175. When Dudley’s grandfather, Robert George, complained about the cemetery inside the Army Camp, the Indian Agent did not take his concerns seriously and did not deem it worth bothering headquarters with his grievances. Had it not been for the Health and Welfare Department having some concerns about the situation and bringing them to the attention of the Indian Affairs Department, it is likely that we would never have known about Robert George’s complaints regarding that burial ground.

<sup>30</sup> Inquiry Document No. 1007803, p. 3; Evidence of Leslie Kobayashi, October 26, 2005, p. 100.

<sup>31</sup> Inquiry Document No. 1006553.

<sup>32</sup> Exhibit P-821, Inquiry Document No. 3000725, p. 6.

passed along the information that “they now allege there is a burial ground within the Park boundaries”<sup>33</sup> to ONAS staff at Queen’s Park.

\*\*\*

Today, there seems to be a consensus: that the burial finding should have been handled differently; that the consistent failure to advise or consult with the First Nation on the issue was inappropriate; that the Park Superintendent keeping a skull on his desk for a few months was inappropriate; and that the failure to do anything to preserve the burial ground despite constant reminders of its existence was inappropriate.<sup>34</sup> It is truly unfortunate that the government did not allow the time to look into those issues before Dudley was shot, as it might not have so readily dismissed the claims that the Stony Pointers were making about a burial site in the Park if it had the documentation to back up the claim.

The government’s inaction on this front, even after the occupation, proved that Dudley and the Stony Pointers were right. Unless they had the courage to stand up and do something to stop the indignities being committed to the burial remains of their ancestors, the indignities would continue because otherwise the government would not stop it or even acknowledge that there was any issue there. Tragically, Dudley had to give his life to make this point.

---

<sup>33</sup> Exhibit P-1055, Inquiry Document No. 3000435; Inquiry Document No. 1003499.

<sup>34</sup> Evidence of Mike Harris, February 15, 2006, p. 148, 149, 155-56.

## CHAPTER 4: THE LIFE AND TIMES OF DUDLEY GEORGE

### *Happy-go-lucky Dudley*

Anthony O'Brien George was born March 17, 1957.<sup>1</sup> The "O'Brien" part was a light-hearted tribute to his Irish heritage – he was born on St. Patrick's Day. That suited him fine, because he was always a joking, silly, happy-go-lucky kind of guy.<sup>2</sup> Nobody called him O'Brien, though, or even Anthony (other than his parents). They called him Dudley, after one of his favourite TV characters, Dudley Do-Right of the Mounties.

People cherished being in Dudley's company. Dudley's gift was his infectious good-natured and joking personality.<sup>3</sup> He was rarely seen without it, from the day he was born until the day he died.<sup>4</sup> He had a tremendous sense of humor and a very outgoing personality. He was one of those people that would make you laugh all day, and people loved being around him.<sup>5</sup>

---

<sup>1</sup> Sam George, April 7, 2005, p. 159.

<sup>2</sup> Yvonne Bonnie Bressette, Cross-Examination by Mr. Andrew Orkin (22 September 2004) at 56, lines 21-23.

<sup>3</sup> Yvonne Bonnie Bressette, Cross-Examination by Mr. Andrew Orkin (22 September 2004) at 56, lines 16-18.; Abraham David Alvin George, Cross-Examination by Mr. Andrew Orkin (21 October 2004) at 25, lines 23-25, and at 26, lines 1-6; Elwood Tracy George, Examination-In-Chief by Ms. Susan Vella (3 November 2004) at 18, lines 7-9; Clayton Morris George, Jr., Examination-In-Chief by Mr. Donald Worme (4 November 2004) at 187, lines 14-18; Michael Wayne Cloud, Examination-In-Chief by Mr. Derry Millar (8 November 2004) at 183, lines 6-8, 17-18; Isaac Charles Doxtator, Examination-In-Chief by Ms. Susan Vella (25 November 2004) at 96, line 25, and at 97, lines 1-6; Leland Bradley White, Examination-In-Chief by Ms. Susan Vella (10 January 2005) at 15, lines 6-8; Carl Otto Tolsma, Examination-In-Chief by Ms. Susan Vella (9 February 2005) at 64, lines 8-10.

<sup>4</sup> Yvonne Bonnie Bressette, Cross-Examination by Mr. Andrew Orkin (22 September 2004) at 69, lines 14-17, 21-24.

<sup>5</sup> Marlin Douglas Simon Jr., Examination-In-Chief by Ms. Susan Vella (28 September 2004) at 150, lines 4-7. Marlin Douglas Simon Jr., Cross-Examination by Mr. Peter Rosenthal (30 September 2004) at 140, lines 22-25, and at 141, lines 1-3; Stacey George, Examination-In-Chief by Mr. Donald Worme (22 November 2004) at 42, lines 11-18; Stacey George, Examination-In-Chief by Mr. Donald Worme (22 November 2004) at 42, lines 11-18; Gina Dawn George, Examination-In-Chief by Mr. Donald Worme (31 January 2005) at 22, lines 10-15.

Dudley's good friend Marcia Simon was very fond of him, and remembered:

He -- in that trailer on the ranges, he had some -- the kind of personality that made one feel good to be around him. My spirits would always be lifted when I would spend a little time with him. And he liked to tell jokes and it was always a light-hearted, outgoing nature that he portrayed...<sup>6</sup>

His personality dictated how he would respond to most any situation – with laughter and playfulness.<sup>7</sup> Dudley's sister, who was very close to Dudley, described him as a person that could always make you feel good, feel happy that you were around him. He would make you laugh: "If there was something really serious that – otherwise everybody would be, like, bawling their eyes out, he'd come in and say something just to make you laugh to get the mood lighter and just generally make you feel better."<sup>8</sup>

When he was not busy with his favourite pastime – watching TV – Dudley loved to play street and ice hockey,<sup>9</sup> fish with his cousins and cook.<sup>10</sup>

Dudley enjoyed coming to the arena in Forest on Sunday afternoons to watch his nephews playing hockey – Joan's boy Alan, Sam's boy Don and Pam's boy Ian,<sup>11</sup> and he would go and watch his niece, Alexis, play baseball.<sup>12</sup> He played road hockey with his sister Pam's boys and the other children in the neighbourhood and the kids called him Uncle Mario.<sup>13</sup>

---

<sup>6</sup> Marcia Flora George Simon, Cross-Examination by Ms. Jackie Esmonde (28 September 2004) at 63, lines 4-10.

<sup>7</sup> Bonnie Bressette, Cross-Examination by Andrew Orkin (22 September 2004) at 69, lines 18-20; Abraham David Alvin George, Cross-Examination by Mr. Peter Rosenthal (21 October 2004) at 68, lines 4-25, and at 69, lines 1-2.

<sup>8</sup> Carolyn George, Examination-In-Chief by Ms. Susan Vella (3 February 2005) at 85, lines 12-23.

<sup>9</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 178, lines 18-20; Yvonne Bonnie Bressette, Continued Examination-In-Chief by Mr. Derry Millar (22 September 2004) at 25, lines 10-18.

<sup>10</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 179, lines 10-14; Marlin Douglas Simon Jr., Cross-Examination by Ms. Karen Jones (12 October 2004) at 30, lines 4-17.

<sup>11</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 179, lines 23-25, and at 180, lines 1-7.

<sup>12</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 180, lines 8-10.

<sup>13</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 179, lines 4-9.

He was certainly creative in the kitchen. The master chef developed some special techniques, and on occasion shared his culinary secrets with his loved ones. His nieces were privileged to learn his technique for knowing when your spaghetti is cooked just right – you throw a piece at the ceiling, and if it sticks, it’s done.<sup>14</sup>

More than anything in the world, Dudley loved children and they loved Dudley.<sup>15</sup> Even as he grew older, he was still a kid at heart himself.<sup>16</sup> Dudley babysat Leland, his cousin Stewart’s boy, when Leland was 12 or 13 years old. Stewart George remembers Dudley showing Leland how to drive:

Yeah, he watched Leland while I'd go to work in Kettle Point ... and I hear Leland more or less having fun, you know, being a chauffeur for Dudley, driving Dudley around, had a chauffeur cap on and all that, and people were laughing, telling me about how Dudley was babysitting. I don't know who was watching who.<sup>17</sup>

Dudley also babysat Tina George’s children:

[M]y kids really liked him. They called him Cabbage Patch Kid. ... Because one time one of my brothers, they were playing a joke and they shaved one of his eyebrows off, and then they called him Cuddly Dudley.<sup>18</sup>

---

<sup>14</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 179, lines 15-22.

<sup>15</sup> Elwood Tracy George, Examination-In-Chief by Ms. Susan Vella (3 November 2004) at 18, lines 7-9.

<sup>16</sup> Yvonne Bonnie Bressette, Cross-Examination by Mr. Andrew Orkin (22 September 2004) at 56, lines 24-25, and at 57, lines 1-9; Marcia Flora George Simon, Cross-Examination by Ms. Jackie Esmonde (28 September 2004) at 62, lines 7-11.

<sup>17</sup> Stewart Bradley George, Examination-In-Chief by Mr. Donald Worme (2 November 2004) at 39, lines 4-5, 21-25, and at 40, lines 1-10; Leland Bradley White, Examination-In-Chief by Ms. Susan Vella (10 January 2005) at 14, lines 17-25, and at 15, line 1.

<sup>18</sup> Tina Rene George, Examination-In-Chief by Ms. Susan Vella (19 January 2005) at 80, lines 12-25.

Children were very important to Dudley. He remembered all of the children's names and always knew what they were up to.<sup>19</sup> He was especially close to his nieces and nephews, and was almost like a father figure for Carolyn George's kids:

[I]f my kids were upset or something they would talk to Dudley and Dudley would help smooth it out and help them get through a lot of their problems in their lives and it was like they -- they would go to him if there was a problem.<sup>20</sup>

### ***Tragedies and troubles***

Dudley and his family did not have an easy time growing up. In 1966 when Dudley was still a little boy, Dudley's parents traded houses with grandma Laura in Kettle Point, and moved the family from Sarnia to Kettle Point. Only nine days later, a fire caused serious damage to the house and forced them to move out.<sup>21</sup>

Dudley and his family went to go live with aunt Daisy and uncle Duffson.<sup>22</sup> This was quite disruptive. All the children and parents lived in one room with a kitchen with no running water. This situation was hard on everybody since it was not a very large room. However, they all decided that they were not going to be separated again and "[they]'d make things do."<sup>23</sup>

Dudley was close to all of the people in his life, so when tragedy struck, it affected him profoundly.

---

<sup>19</sup> Kevin Charles Simon, Examination-In-Chief by Mr. Derry Millar (1 December 2004) at 101, lines 22-25, and at 102, lines 1-6.

<sup>20</sup> Carolyn George, Examination-In-Chief by Ms. Susan Vella (3 February 2005) at 86, lines 3-13.

<sup>21</sup> Marcia Flora George Simon, Examination-In-Chief by Mr. Donald Worme (23 September 2004) at 140, lines 19-25, and at 141, lines 1-3; Sam George, 8 April 2005, at 99.

<sup>22</sup> Marcia Flora George Simon, Examination-In-Chief by Mr. Donald Worme (23 September 2004) at 140, lines 19-25, and at 141, lines 1-3; Maynard Donald George, Cross-Examination by Mr. Ian Roland (18 April 2005) at 99, lines 6-23.

<sup>23</sup> Maynard Donald George, Cross-Examination by Mr. Ian Roland (18 April 2005) at 100, lines 13-25, and at 101, lines 1-2.

In 1969, Dudley's older sister Karen was killed in a car crash.<sup>24</sup> Dudley was about twelve at the time. This was really a tragic occurrence for the family, and it hit Dudley hard.<sup>25</sup>

Tragedy struck again when Dudley's mother, Genevieve, died in 1971.<sup>26</sup> Dudley got into some trouble with the law after that. In 1974, at the age of 17, he was charged for arson when a warehouse in Forest burnt to the ground. He pleaded guilty and was sentenced to prison for 21 months.<sup>27</sup> There were a number of young people involved with the incident, but Dudley is the only one who was ever charged.<sup>28</sup> After his release from prison in 1976, while he was still a teenager, Dudley got involved in some unfortunate activities that netted him several months of additional jail time.

Dudley was closest to his brother David, who was one year younger than Dudley. They spent a considerable amount of time together.<sup>29</sup> Dudley was devastated when David took his own life in 1980.<sup>30</sup> David was followed by Dudley's father, Reginald Sr., who died from pancreatic cancer in 1986.<sup>31</sup> Dudley became a bit of a wanderer after that, as if he was looking for something.<sup>32</sup> Dudley had kept out of trouble for about eight years, but after his father's passing, Dudley started to drink,<sup>33</sup> and was even convicted for driving while impaired once in 1990.<sup>34</sup>

---

<sup>24</sup> Marcia Flora George Simon, Examination-In-Chief by Mr. Donald Worme (23 September 2004) at 141, lines 6-7.

<sup>25</sup> Maynard Donald George, Cross-Examination by Mr. Ian Roland (18 April 2005) at 99, lines 24-25, and at 100, lines 1-12.

<sup>26</sup> Marcia Flora George Simon, Examination-In-Chief by Mr. Donald Worme (23 September 2004) at 141, lines 19-21; Sam George, 7 April 2005, p. 157.

<sup>27</sup> Maynard Donald George, Cross-Examination by Mr. Ian Roland (18 April 2005) at 102, lines 4-5.

<sup>28</sup> Maynard Donald George, Continued Examination-In-Chief by Mr. Derry Millar (18 April 2005) at 20, lines 9-18.

<sup>29</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 176, lines 20-25, and at 177, lines 1-3; Cross-Examination by Mr. Ian Roland (18 April 2005) at 97, lines 8-15.

<sup>30</sup> Maynard Donald George, Cross-Examination by Mr. Ian Roland (18 April 2005) at 105, lines 15-25, and at 106, lines 1-8.

<sup>31</sup> Maynard Donald George, Cross-Examination by Mr. Ian Roland (18 April 2005) at 106, lines 9-13.

<sup>32</sup> Sam George, 18 April 2005, p. 106.

<sup>33</sup> Maynard Donald George, Cross-Examination by Mr. Ian Roland (18 April 2005) at 110, lines 4-9; George McKenzie Speck, Examination-In-Chief by Mr. Donald Worme (22 March 2006) at 250, lines 6-8.

<sup>34</sup> Maynard Donald George, Continued Examination-In-Chief by Mr. Derry Millar (18 April 2005) at 21, lines 4-10.

Those were the rough days for Dudley, but no matter how rough things got, Dudley never lost that happy-go-lucky attitude that was his trademark.

Finally, in the early 1990's, Dudley decided to put all of that behind him. He thought about the history of his people and their lands. He thought about how his peoples' lands had been taken and how it caused such turmoil in his community. He must have figured that many of the tragedies that occurred in his own life could be traced back to that, and wondered what life would be like if his family had never been displaced from Stony Point. After all the tragedies in his life, here was one that he could actually do something about – a tragedy that affected his whole community. Finally, after years of searching and wandering, he found his way and he realized his mission in life – to get back Stony Point. He wanted to go home.

### ***Finding a mission in life – reclaiming his birthright***

Dudley felt strongly about the land,<sup>35</sup> and developed a great love for and attachment to the beautiful piece of land that his ancestors had set aside for the exclusive use and possession of their people in perpetuity. He had spent his life living in Sarnia, Kettle Point, Forest, and even Guelph, but Stony Point was where he knew he belonged.<sup>36</sup>

Dudley understood that the land had been illegally taken from his grandfather and the rest of the community.<sup>37</sup> He also learned that the Park was located on his ancestors' burial grounds, and that did not sit well with him.<sup>38</sup> He would talk about the lands with the other occupiers, like David George, who recounted: “[W]e'd sit there and talk about the

---

<sup>35</sup> Clifford George, Examination-In-Chief by Mr. Donald Worme (10 September 2004) at 96, lines 14-16.

<sup>36</sup> Clifford George, Cross-Examination by Mr. Murray Klippenstein (10 September 2004) at 144, lines 5-6, 17-22.

<sup>37</sup> Clifford George, Cross-Examination by Mr. Murray Klippenstein (10 September 2004) at 146, lines 7-11.

<sup>38</sup> Yvonne Bonnie Bressette, Cross-Examination by Mr. Andrew Orkin (22 September 2004) at 58, lines 3-18.

Camp, the lands, and the way the White Man dealt with us, and, you know, we'd sit there and talk a good long time there.”<sup>39</sup>

In 1993, about a month after starting the occupation of the Army Camp, Dudley owned his first home – a trailer that had been donated to the Council to give to whoever needed it. They decided that Dudley was the one that needed it.<sup>40</sup> Dudley was thrilled. He treasured that place. For him it was a mansion.<sup>41</sup> He moved in full-time.

Dudley remained adamant in his resolve to stay at Stony Point, despite the very difficult living conditions and denigration from military people and passers-by.<sup>42</sup> He and Clifford George were the only ones that stayed permanently in the army camp over the winter of 1993-1994.<sup>43</sup> He dedicated himself with abandon to the cause of reclaiming his people’s ancestral lands – their birthright. He wanted to see the land come back to the people for the future generations.<sup>44</sup> He knew that there had been decades of frustration when nothing was done to return the land to its rightful owners. He wanted to end that frustration,<sup>45</sup> and in the end, he did.

Dudley was one out of several keepers of a sacred fire that was lit for around six months during the occupation of the army camp lands.<sup>46</sup> Fire is sacred to the Native people and is part of a lot of their ceremonies. They offer some samaa, tobacco or other medicines, sage, and sweetgrass. When tending that fire, a fire-keeper is expected to be clean, free of drugs and booze for at least three days prior in order to have a clean mind and clean

---

<sup>39</sup> Abraham David Alvin George, Cross-Examination by Mr. Andrew Orkin (21 October 2004) at 25, lines 12-22.

<sup>40</sup> Clifford George, Cross-Examination by Mr. Ian Roland (21 September 2004) at 14, lines 6-23.

<sup>41</sup> Clifford George, Cross-Examination by Mr. Murray Klippenstein (10 September 2004) at 144, lines 6-13.

<sup>42</sup> Marcia Flora George Simon, Cross-Examination by Ms. Jackie Esmonde (28 September 2004) at 62, lines 15-24.

<sup>43</sup> Clifford George, Cross-Examination by Mr. Ian Roland (21 September 2004) at 19, lines 17-25, and at 20, lines 1-9.

<sup>44</sup> Isaac Charles Doxtator, Examination-In-Chief by Ms. Susan Vella (25 November 2004) at 99, line 25, and at 100, lines 1-7.

<sup>45</sup> Yvonne Bonnie Bressette, Cross-Examination by Mr. Andrew Orkin (22 September 2004) at 64, line 25, and at 65, lines 1-15.

<sup>46</sup> Marlin Douglas Simon Jr., Examination-In-Chief by Ms. Susan Vella (28 September 2004) at 138, line 25, and at 139, lines 1-8.

spirit.<sup>47</sup> Dudley was actually one of the most dedicated fire-keepers. When the protest walk to Ottawa was taking place, he was the only one that stayed back. He was still there tending the fire.<sup>48</sup> Dudley liked to work hard, cutting wood or doing whatever needed to be done, and he was always helping somebody.<sup>49</sup>

Although Dudley was dearly loved by his friends and the people in his community, the same probably could not said for the military people who he teased and verbally sparred with when they drove by. Dudley did not think that they should still be holding the Stony Point lands. So he gave them a rough time by cussing them and giving the finger, although not in a way that should ever make them feel threatened:<sup>50</sup>

Like even to DND, while he was there, they had thought it was amusing because Dudley would, when they rode by, Dudley would go out and he'd scream and holler, and he give them the finger, and they'd stop, and they would make a joke and say, yeah, we know we're number one, and Dudley just burst out laughing. And there's times he just went out there and talked with them.<sup>51</sup>

Kevin Simon remembered Dudley's teasing of the police from time to time: "[H]e was a joker, a jokester of sorts. At the same time he'd be serious in his jokes, but it seemed funny when he'd be telling them basically to leave, or something along those lines."<sup>52</sup> But the police and the military police would say things to Dudley too.<sup>53</sup> The police may have seen Dudley as a bit of a loudmouth, but the OPP, or at least Detective Sergeant George Speck, did not see Dudley as being violent or a criminal element:

---

<sup>47</sup> Kevin Charles Simon, Examination-In-Chief by Mr. Derry Millar (1 December 2004) at 104, lines 15-25, and at 105, lines 1-11.

<sup>48</sup> Kevin Charles Simon, Examination-In-Chief by Mr. Derry Millar (1 December 2004) at 106, lines 3-20.

<sup>49</sup> Michael Wayne Cloud, Examination-In-Chief by Mr. Derry Millar (8 November 2004) at 183, lines 9-16.

<sup>50</sup> Clifford George, Cross-Examination by Mr. Murray Klippenstein (10 September 2004) at 145, lines 13-16; Marlin Douglas Simon Jr., Examination-In-Chief by Ms. Susan Vella (28 September 2004) at 150, lines 18-25, and at 151, lines 1-14, and at 152, lines 2-15; Abraham David Alvin George, Cross-Examination by Mr. Andrew Orkin (21 October 2004) at 29, lines 4-20.

<sup>51</sup> Carl Otto Tolsma, Examination-In-Chief by Ms. Susan Vella (9 February 2005) at 233, lines 23-25, and at 234, lines 1-19.

<sup>52</sup> Kevin Charles Simon, Examination-In-Chief by Mr. Derry Millar (1 December 2004) at 189, lines 5-13.

<sup>53</sup> Kevin Charles Simon, Examination-In-Chief by Mr. Derry Millar (1 December 2004) at 189, lines 14-18.

I never considered him [Dudley] criminal element or anything although he did have a record that I'm aware of. And I did have an occurrence involving a fraud with him. But he wasn't a violent person that I was aware of, let's put it that way. I never had anything to do with him that way.<sup>54</sup>

Dudley was not satisfied with just having the Army Camp lands back. He knew there was still an important piece of the reserve missing – the land where his own grandfather used to live and which became Ipperwash Provincial Park. He also knew that there was a burial ground on that land,<sup>55</sup> and it troubled him that for decades there had been campers in Ipperwash Provincial Park “partying around on those graves.”<sup>56</sup>

It was a combination of deep respect for the burial places of his ancestors, and the knowledge that the land belonged to his people, that gave Dudley his sense of purpose. As he sat beside one of the inland lakes reeling in the fish on a beautiful summer day in 1995, he felt it was really where he belonged. “I love this place,” he told his fishing buddy, “I’d die for it.”<sup>57</sup> Little did he know how prophetic those words would be.

Dudley gave his life for what he believed in. He stood up for his people’s rights, but he paid the ultimate price. He will never be forgotten. And what he fought for will never be forgotten.

---

<sup>54</sup> George McKenzie Speck, Examination-In-Chief by Mr. Donald Worme (22 March 2006) at 250, lines 8-14.

<sup>55</sup> Glen Carlyle Bressette, Jr., Examination-In-Chief by Mr. Derry Millar (9 November 2004) at 170, lines 21-25, and at 171, lines 1-5.

<sup>56</sup> Glen Carlyle Bressette, Jr., Examination-In-Chief by Mr. Derry Millar (9 November 2004) at 171, lines 6-25, and at 172, lines 1-5.

<sup>57</sup> Maynard Donald George, Examination-In-Chief by Mr. Derry Millar (7 April 2005) at 183, lines 10-15.

## CHAPTER 5: THE IPPERWASH PARK OCCUPATION

### ***A new era of government ignorance and disrespect for First Nations in Ontario***

A world away from the secluded inland lakes on Stony Point where Dudley uttered his prophetic words, Michael Deane Harris settled into his comfortable new offices at Queen's Park. Under the banner of the "Common Sense Revolution," Harris and his Conservative Party had remarkably swept into power in June 1995. The voters wanted change, and Harris was determined to give it to them. Nobody imagined, though, that the cost of that change would include human life – first Dudley George, and then the Walkerton seven.

The election was a setback for First Nations, who viewed Premier Mike Harris's government as being anti-Native.<sup>1</sup> As leader of his party, Harris made some quite derogatory comments about First Nations people that demonstrated a lack of cultural or historical awareness or sensitivity with regard to First Nations people. In a speech a few months before the election, Harris complained that "native people haven't fully adapted from the reservations to being full partners in this economy."<sup>2</sup> That is the kind of assimilationist language which might have been lifted straight from one of Duncan Campbell Scott's speeches. Harris also remarked that: "Too many [Natives] spend all their time on courts and lawyers and they just stay at home and do nothing," making it clear that he considers many or most land claims to be unjustified, and Natives to be lazy and opportunistic.<sup>3</sup>

---

<sup>1</sup> Gordon Peters, March 31, 2005, p. 25.

<sup>2</sup> Exhibit P-978, Peterborough Examiner article, October 29, 1994.

<sup>3</sup> *Ibid.*

Harris's handpicked senior advisors, Deb Hutton and Guy Giorno, were not of much assistance in helping him develop an understanding of aboriginal issues. To the contrary, they seemed surprised when briefed that Aboriginal people had constitutionally protected rights and that there were certain obligations and constraints on the Provincial government.<sup>4</sup> More disturbingly, they did not particularly care<sup>5</sup> – they had their view on the issue and they were sticking to it. The policy of the Harris government was that Aboriginals have the same rights as everyone else. They were diametrically opposed to the notion that there was such a thing as special rights for Aboriginal people, even though that is what the Constitution enshrined.<sup>6</sup>

It was apparent to First Nations leaders that the government had an ideology that everyone was equal and should be treated equally, without taking into account any treaty relationships, rights to self-determination, or other rights held by First Nations people.<sup>7</sup> That philosophy, combined with the unapologetic law-and-order agenda propagated by Harris's party, did not bode well for First Nations peoples in Ontario, and would not bode well for Dudley.

Treating natives and non-natives the same is not the same thing as treating them fairly. Saying that natives will be treated the same as anyone else is just a euphemism for assimilation.<sup>8</sup> It means disregarding treaty relationships and reverting back to old policies of swallowing up indigenous peoples within the body politic of Canada.<sup>9</sup> In treating indigenous peoples the same as anyone else, the government ignores the historical relationships that First Nations have with the Crown, and the constitutional rights of First Nations people.<sup>10</sup>

It was a quiet first ten weeks while Harris and his team settled into power after being sworn in on June 26, 1995. Then, in September 1995, Harris was presented with his first

---

<sup>4</sup> Julie Jai, August 30, 1995, p. 68.

<sup>5</sup> Julie Jai, August 30, 1995, p. 69-72.

<sup>6</sup> Julie Jai, August 30, 1995, p. 69-70, 91-92, 98-99.

<sup>7</sup> Gordon Peters, March 31, 2005, p. 25-26.

<sup>8</sup> Gordon Peters, March 31, 2005, p. 182.

<sup>9</sup> Gordon Peters, March 31, 2005, p. 182.

<sup>10</sup> Gordon Peters, March 31, 2005, p. 183.

real test. A group of natives had occupied a Provincial Park in southwestern Ontario. This would not be tolerated. Not on Mike Harris's watch. Not for an instant. Harris was determined to show the world how those Indians should be dealt with – swiftly, decisively, belligerently.

### ***Reclaiming the Park***

Labour Day, September 4, 1995, brought a close to another busy summer at Ipperwash Provincial Park. Thousands of people from all over Ontario, Michigan, and beyond camped out that season on the gorgeous jewel of land that graced the shores of Lake Huron, oblivious to the fact that they were on sacred land and on treaty reserve land.

Their neighbours living in the former Army Camp to the east and south knew the truth though. They knew that almost 70 years ago that land had been taken from their grandparents, and Ipperwash Provincial Park was part of the treaty reserve lands that were guaranteed to the Anishnaabeg people for their exclusive use and possession in perpetuity.

The Stony Pointers had already successfully reclaimed most of their reserve when they occupied the Army Camp lands. Now that the Park was closing for the season, it was time to come back for the rest – to make the reserve whole again.

As evening rolled around, after the campers had gone home, a couple dozen Stony Pointers spilled into the Park. The land was theirs, except for a number of OPP officers and Park staff who were inside the Park expecting their arrival. The police were asked to leave. Roderick “Judas” George told them to get off his people's property.<sup>11</sup> The police declined his invitation, and the cohabitation continued for another two hours.

---

<sup>11</sup> Inquiry Document No. 1000339 (Statement of Paul Japp), p. 2.

Eventually, the Stony Pointers grew tired of the police presence in the Park. The provincial government had used that land for the last 58 years for its own purposes, for its own people, and now the Stony Pointers wanted it back. The land had been guaranteed to their ancestors for their exclusive use and possession forever, and they wanted it back for their exclusive use and possession, which meant the OPP were not welcome to occupy that land with them. They asked several times for the OPP to leave.<sup>12</sup> Still, they stayed.

Meanwhile, some of the kids occupying the Park started having a little too much fun with some firecrackers – little bottlecap-sized strobe firecrackers that spark and change colour and smoke a little bit. They threw some of them toward the area where the police were congregated.<sup>13</sup> One of them unfortunately bounced off a police officer, but the little strobes were perfectly harmless and no damage was done. It was minor mischief by some kids, not an act of aggression.

The one incident of aggression by an occupier that evening came when Judas George returned to the area and saw the police still there, after having asked them to leave two hours ago. He decided enough was enough and gave them a countdown to leave. When the police were still there at the end of the countdown, Judas took his walking stick and smashed the back window of one of the police cruisers.<sup>14</sup> Finally, the police officers scrambled into their cars and left the Park.

By the end of day one, there had been some property damage to a police cruiser and some careless lobbing of firecrackers, but otherwise things were quite peaceful.

And the Stony Pointers were ecstatic. After more than half a century of frustration, of being ignored by the government, of having their ancestral burial grounds desecrated, they finally had their treaty land back. Dudley had come home.

---

<sup>12</sup> Kevin Simon, December 1, 2004, p. 159-60; Larry Parks, March 28, 2006, p. 227.

<sup>13</sup> Wesley George, November 30, 2004, p. 190-91; Kevin Simon, December 1, 2004, p. 162-163; Marlin Simon, Trevor Richardson, June 8, 2006, p. 288-290.

<sup>14</sup> Kevin Simon, December 1, 2004, p. 164-165.

## ***Political outrage by a hawkish Premier***

The occupation came as no surprise to the OPP. They had been expecting it for about a month, and they had developed a detailed contingency plan for how to deal with the occupation, if and when it occurred. The objective of that plan, called Project Maple, was to “CONTAIN AND NEGOTIATE A PEACEFUL RESOLUTION.”<sup>15</sup> However, over the course of the next two days, Project Maple would crumble under the weight of political pressure from the Premier.

The political pressure started brewing quickly. Even on the evening of the holiday Monday, word of the occupation quickly spread to Queen’s Park, right up to the Premier’s office.<sup>15.1</sup> The news relayed to Deb Hutton should not have been particularly alarming – the Park had been occupied by native people, but the Park had closed for the season, the campers had gone home, and there was no public safety issue.<sup>16</sup> There was not much of an issue in terms of public safety, or even public convenience. It was not much of a crisis yet, but there was certainly a golden opportunity for Harris and Hutton to turn it into one.

It did not matter to Harris and Hutton that there was no public safety issue and no apparent urgency to the situation. They wanted the Indians out of the Park, and they wanted them out quick. The Indians needed to be sent a message that occupations will not happen on Mike Harris’s watch. It was time for Harris to put his anti-native politics into practice: the occupiers had to be treated like a gang of lawbreakers. There would be no consideration given to their grievances and any special treaty and constitutional rights they may have – that would not be how things were done in Mike Harris’s Ontario.

---

<sup>15</sup> Exhibit P-424, Project Maple.

<sup>15.1</sup> Jeff Bangs, November 3, 2005, p.44-45

<sup>16</sup> Deb Hutton, November 21, 2005, p. 156.

By the time that the civil servants convened for the Interministerial Committee (IMC) meeting the morning of September 5<sup>th</sup>, to develop recommendations on how to deal with the situation, Mike Harris and Deb Hutton already knew what they wanted.

Deb Hutton and other political staff joined the civil servants at the Interministerial Committee meeting. She listened to the report presented to that meeting by the OPP, by OPP liaison officer Ron Fox, about the situation on the ground. It was nothing alarming. She listened to the report from MNR. The Park was closed,<sup>17</sup> the situation was quiet and stable,<sup>18</sup> there was some evidence of a burial site in the Park,<sup>19</sup> it appeared the occupiers claimed ownership of the land,<sup>20</sup> and there was no indication that the occupiers were armed.<sup>21</sup>

With this factual background, the civil servants tabled their suggestions, oblivious to the fact that the Premier had already decided how to approach the situation. Peter Allen, Executive Assistant to the Deputy Minister of Natural Resources, said that somebody needs to talk with the occupiers,<sup>22</sup> and that they are occupying an empty park so there should be no overly precipitous action taken.<sup>23</sup> The suggested approach from MNR senior civil servants, as recorded in notes taken at the meeting, was:

---

<sup>17</sup> See the following individuals' handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 2); Julie Jai (Exhibit P- 536, Inquiry Document No. 1012579, p. 2); Leith Hunter (Inquiry Document No. 1012564, p. 2).

<sup>18</sup> Handwritten notes of Eileen Hipfner, Interministerial Committee Meeting, September 5, 1995 (Exhibit P-510, Inquiry Document No. 1011739, p.1).

<sup>19</sup> See the following individuals' handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 1); Julie Jai (Exhibit P- 536, Inquiry Document No. 1012579, p. 1); Caroline Pinto (Exhibit P-969, Inquiry Document No. 1011727, p. 1); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 1); Leith Hunter (Inquiry Document No. 1012564, p. 2).

<sup>20</sup> See the following individuals' handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 1); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 2-3).

<sup>21</sup> See the following individuals' handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 2); Julie Jai (Exhibit P- 536, Inquiry Document No. 1012579, p. 2); Andrew McDonald (Inquiry Document No. 1011721, p. 2); Caroline Pinto (Exhibit P-969, Inquiry Document No. 1011727, p. 2).

<sup>22</sup> See the following individuals' handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 3); Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 3); Leith Hunter (Inquiry Document No. 1012564, p. 4).

<sup>23</sup> See the following individuals' handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 3); Julie Jai (Exhibit P-536,

Have inj [injunction] ready to go. But for time being they aren't causing harm. Park isn't being used anyway. No great inconvenience.<sup>24</sup>

This was echoed by the Minister's Executive Assistant, Jeff Bangs:

We can afford to wait; if get inj., we will be expected to move in – don't want to escalate [situation].<sup>25</sup>

There was further discussion by the civil servants about the fact that there was no public safety issue because the Park was empty, which reduced the urgency of the situation as well as the chance of getting an injunction.<sup>26</sup> It was clear to Deb Hutton, who had sat and listened to all of this, that the professional civil servants preferred to take a cautious wait-and-see approach. This was not acceptable. This is not what she and the Premier wanted. Her frustration with the direction in which the meeting appeared to be headed mounted until she could no longer bite her tongue. “[The] Premier is hawkish<sup>27</sup> on this issue,”<sup>28</sup> she assertively interjected. The Premier's “hawkish” view in respect of Native

---

Inquiry Document No. 1012579, p. 3); Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 2); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 3b); Leith Hunter (Inquiry Document No. 1012564, p. 4).

<sup>24</sup> Handwritten notes of Leith Hunter, Interministerial Committee Meeting, September 5, 1995 (Inquiry Document No. 1012564, p. 4). See also the following individuals' handwritten notes for that same meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 3); Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 3); Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 2).

<sup>25</sup> Handwritten notes of Eileen Hipfner, Interministerial Committee Meeting, September 5, 1995 (Exhibit P-510, Inquiry Document No. 1011739, p. 4). See also the following individuals' handwritten notes for that same meeting: Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 3); Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 2); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 4); Leith Hunter (Inquiry Document No. 1012564, p. 4).

<sup>26</sup> See the following individuals' handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 4); Janina Korol (Exhibit P-970, Inquiry Document No. 1006188, p. 1); Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 2); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 4); Leith Hunter (Inquiry Document No. 1012564, p. 4).

<sup>27</sup> “Hawkish” is defined by the Merriam Webster Dictionary as “[o]ne who takes a militant attitude and advocates immediate, vigorous action, especially a supporter of a war, or war-like policy. Compare to a dove.” Exhibit P-533; Ronald Fox, July 14, 2005, p. 175-77, 222; Jeffrey Bangs, November 21, 2005, p. 72-73.

<sup>28</sup> The word “hawkish”, as used by Deb Hutton, was understood by its ordinary meaning by civil servants as meaning aggressive and warlike as opposed to dovish (see, e.g., Eileen Hipfner, September 15, 2005, p. 72).

rights “will set the tone for how we deal with these issues over the next four years.”<sup>29</sup>

The personal views of the Premier of Ontario, the highest and most powerful government official in the province, were being brought to bear, loud and clear. Hutton continued: “This is a clear-cut issue of Ontario’s ownership of property. If ever we need to act it is now.”<sup>30</sup>

Hutton’s stunning intervention completely changed the tone of the IMC meeting and massively jacked up the tension.<sup>31</sup> Before Hutton spoke, the committee was tending towards a cautious wait-and-see approach that would not risk escalating the situation, even with respect to the injunction. Afterwards, the focus of the meeting shifted to trying to address the concerns of the Premier – that this situation was to be regarded as much more urgent than it actually was.<sup>32</sup> They set aside the prudent wait-and-see approach, and focused exclusively on options that would achieve the goal of removal – criminal charges, provincial offence charges, and an ordinary civil injunction (which might be heard in two weeks).<sup>33</sup>

Still, the civil servants were concerned about the information they had received that there may be a burial site in the Park and that they needed to find out the full implications of that potential issue.<sup>34</sup> Deb Hutton did not like what she was hearing. She interjected again and insisted that the “Premier wants to deal with the group as if they were non-

---

<sup>29</sup> See the following individuals’ handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 4); Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 4); Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 2); Caroline Pinto (Exhibit P-969, Inquiry Document No. 1011727, p. 3).

<sup>30</sup> See the following individuals’ handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 4); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 4b); Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 2).

<sup>31</sup> Eileen Hipfner, September 15, 2005, p. 51, 95-96.

<sup>32</sup> Eileen Hipfner, September 15, 2005, p. 85, 95-96.

<sup>33</sup> See the following individuals’ handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 5); Eileen Hipfner (Exhibit P-510, Inquiry Document No. 1011739, p. 5); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 5).

<sup>34</sup> See the following individuals’ handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 6); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 5).

aboriginals.”<sup>35</sup> This government had a strategic imperative in this situation, which was that “this government treats aboriginal and non-aboriginal people the same.”<sup>36</sup> And just in case the civil servants did not get the message, Deb Hutton spelled it out for them: the Premier “wants an *emergency* injunction [and] doesn’t want to wait two weeks.”<sup>37</sup>

It was clear the Premier wanted action taken as soon as possible to remove the occupiers.<sup>38</sup> The Premier was interested only in *removal*, not about discussions, and not about the possibility that there may be underlying grievances, and he wanted removal fast.

### ***John Carson meets the alligators – political pressure builds***

*“We’ve had some alligators ... some political pressures if you would.”<sup>39</sup>*

Not much was particularly going on in the Park on September 5, 1995. In fact, nothing of any significance had happened since the police left the Park the night before. Yes, the Park was occupied, but all was calm and peaceful inside. Outside the Park, though, at Queen’s Park and at the OPP Command Post at Forest, there was a flurry of activity.

At the OPP Command Post in Forest, the morning of September 5 began with the OPP Incident Commander, Inspector John Carson, hearing about the concerns of the local MPP, Marcel Beaubien – a member of Mike Harris’s government. Beaubien was irate, saying he wanted something done, and that he would be calling the Premier.<sup>40</sup> It was

---

<sup>35</sup> Handwritten notes of Anna Prodanou, Interministerial Committee Meeting, September 5, 1995 (Exhibit P-730, Inquiry Document No. 1006191, p. 4).

<sup>36</sup> See the following individuals’ handwritten notes for the September 5<sup>th</sup> Interministerial Committee Meeting: Janina Korol (Exhibit P-970, Inquiry Document No. 1006188, p. 3); Anna Prodanou (Exhibit P-730, Inquiry Document No. 1006191, p. 4); Elizabeth Christie (Exhibit P-735, Inquiry Document No. 1011749, p. 5).

<sup>37</sup> Handwritten notes of Julie Jai, Interministerial Committee Meeting, September 5, 1995 (Exhibit P-536, Inquiry Document No. 1012579, p. 8) [emphasis added].

<sup>38</sup> Exhibit P-649, Inquiry Document No. 1011769, Email from Julie Jai to Yan Lazor, September 5, 1995.

<sup>39</sup> Exhibit P-444 B, Tab 42, p. 282.

<sup>40</sup> Exhibit P-444 A, Tab 4.

only 8:20 the morning after the occupation, and already the police knew that the occupation was now a Provincial issue. This mattered to John Carson, and he made a point of saying that he was interested in hearing Beaubien's feelings about the situation after he talked to Harris about it.<sup>41</sup>

It was early yet though, so John Carson continued to emphasize the prime directive – contain and negotiate a peaceful resolution.<sup>42</sup> He was well aware of the reasons for the occupation, that is, that the occupiers were claiming the Park land as their own and that there were claims that the land was an Indian burial ground, and, in keeping with the prime directive, he asserted that: “we have to try and arrange some meetings and discuss those issues.”<sup>43</sup>

No discussion of the sort did ever happen. It does not appear that much effort was expended by the OPP in trying to establish some dialogue, but to be fair, it would have taken some time to build a relationship in which dialogue occurs, and it would have taken some time for the Stony Pointers to organize themselves in such a way that such dialogue could occur. That simply could not happen within a day or two.

However, the message that this issue was now Provincial must have had some impact on Carson. It was not long after the election and everyone was well aware that with the new government, things would not be done the same as they had been in the past. It was clear that the Harris government was not sympathetic to native people, and Carson must have known even before hearing it that the Premier would want the occupation terminated swiftly. Carson was certainly not naïve, and he must have foreseen that there would be a real possibility that force would have to be used to end the occupation in short order. He

---

<sup>41</sup> Exhibit P-444 A, Tab 4, p. 13. Carson's conversation with Lacroix wraps up with Lacroix saying that Beaubien “just let me know that he's calling the Premier's” and that “It's now Provincial and so anyway I'll call him back,” to which Carson replied: “Well that's good and let me know how you make out with him. I am interested in his feelings about this,” which clearly refers to wanting to know his feelings after talking to the Premier.

<sup>42</sup> Exhibit P-444 A, Tab 4.

<sup>43</sup> Conversation between Carson and Babbitt, September 5, 1995, 9:04 (John Carson, May 17, 2005, p. 43-46—the respective log was not maintained; p. 43); Exhibit P-444 A, Tab 6, p. 28 also records Carson referring to the claim that “it's their land” as one of their demands.

busied himself for much of the day trying to acquire a Light Armoured Vehicle (LAV),<sup>44</sup> should his conscious or subconscious expectation that force may soon be required to remove the occupiers come to pass.

Acquiring a LAV was not part of Project Maple. Nor was there any rush to do anything of this nature since no one in the community was in any danger in Carson's estimation.<sup>45</sup> Perhaps Carson spent so much time that day on that task, and so little on trying to set up negotiations because he learned that the occupation was becoming political and that he and his men and women were being watched by the highest government official in the province. Perhaps not. In any event, Carson was proving not entirely averse to the pro-action non-negotiation stance which the Premier was advocating.

John Carson thought that the message that the Premier was watching was relevant to the operation and important enough to pass on to his command team. During the morning briefing of his command team, he filled them in on the information from Marcel Beaubien and that Beaubien was calling the Premier.<sup>46</sup> Carson's right-hand man, A/S/Sgt. Mark Wright, and Sgt. Stan Korosec listened attentively.

Mark Wright was already revved up and eager to go. As far as he was concerned, the police were there acting on behalf of MNR. "Of course, we're acting on behalf of MNR," he told OPP Inspector Ed Robertson. Wright just wanted a piece of paper that would give him and the troops licence to go in and take the Park back. In Wright's words: "All their ministry levels are meeting and they're going to get an injunction, 'cause that's what *we* want. We want a piece of paper and *our intention is to go back in and take that Park.*"<sup>47</sup> Mark Wright was Carson's right-hand man, Carson's top assistant at Ipperwash, the #2 in command. Coming from him, it was disturbing to hear that the police were taking sides in the property dispute, in favour of MNR and against the Stony

---

<sup>44</sup> Further information about the LAV can be found in the scribe notes as well as various phone calls and testimony.

<sup>45</sup> Exhibit P-444 A, Tab 4.

<sup>46</sup> Exhibit P-426, Inquiry Document No. 1002419, p. 25; Exhibit P-427, Inquiry Document No. 1000152, p. 390.

<sup>47</sup> Exhibit P-1072 [emphasis added].

Pointers. It was even more disturbing to hear that the police were planning and *hoping* to take offensive action against the occupiers. And it was disappointing that OPP Inspector Ed Robertson did nothing when confronted with those comments.

Wright was all revved up and eager to go and “get those fucking guys”,<sup>48</sup> as he referred to the occupiers. All he needed was permission, and an opportunity. The permission, he would soon get from the Premier. The opportunity would come in the form of a trivial altercation between two Band members the next day.

September 5, 1995, 2:47 p.m. All was quiet at the Park. Carson was still working hard on getting that LAV. He was also wondering what the latest was from Queen’s Park, so he picked up the phone and called Ron Fox, who had just emerged from that Interministerial Committee meeting. Fox updated Carson:

FOX: First of all, the Premier’s office had representation there in the form of one Deborah Hutton,  
[...]

FOX: Very much empowered, and basically the Premier has made it clear to her his position is that there be no different treatment of the people in this situation, in other words, native as opposed to non-native.

CARSON: Okay.

FOX: And the bottom line is wants them out [...]<sup>49</sup>

The Premier’s instructions – communicated loud and clear to the Incident Commander in the middle of a police operation. This was extraordinary! Never before or since had John Carson ever been involved in a police operation in which the instructions and views

---

<sup>48</sup> Exhibit P-444 B, Tab 48, p. 310.

<sup>49</sup> Exhibit P-444 A, Tab 16.

of the Premier were communicated to him.<sup>50</sup> It was impossible to disregard those poisonous views. And Carson did not disregard them. Instead, he relayed them to his team. Apparently, this was information John Carson thought his command team needed to know.

Ten minutes after he ended his telephone call with Ron Fox, John Carson convened his command team – Wright, Korosec, and others. He proceeded to tell *them* the Premier's wishes: the First Nations occupiers were to be treated no differently than non-natives.<sup>51</sup> The poison spread.

In case there was any ambiguity about what was meant by the instruction that natives not be treated differently than anyone else would be in this situation, it was cleared up when Carson spoke with his boss, Superintendent Tony Parkin, an hour later:

PARKIN: The people from the government are saying, you know, why don't we treat them just like a bunch of bikers.

CARSON: Well, well they've got a point.<sup>52</sup>

After Carson wrapped up his conversation with Parkin, he was promptly interrupted by a phone call regarding the LAV. But as soon as he was done with that call, he picked up the phone again and called S/Sgt. Wade Lacroix, who had passed along the information from Marcel Beaubien to John Carson that morning. Carson wanted to know if Lacroix had heard anything about what was going on at Queen's Park through his contact, Marcel Beaubien.

It happens that Beaubien had just recently spoken with Bill King, one of Mike Harris's Executive Assistants. Bill King told him that Ipperwash was an MNR issue, not an

---

<sup>50</sup> John Carson testimony, June 7, 2005, p. 88-89.

<sup>51</sup> Exhibit P-427, Inquiry Document No. 1000152, p. 438. Mysteriously, this comment only appears in the original handwritten scribe notes (Exhibit P-426, Inquiry Document No. 1002419, p. 37-38), but not in the typed version. No explanation has been provided for that omission.

<sup>52</sup> Exhibit P-444 A, Tab 21, p. 169.

Indian issue; that the Premier is following the situation closely; that the police are there to assist MNR; and that the law will be upheld no matter who is involved.<sup>53</sup> Beaubien passed all of that along to Lacroix, who passed it on to Carson:

LACROIX: Marcel got briefed a half an hour ago

CARSON Okay

LACROIX And he's going to get briefed again in five

CARSON: Okay

LACROIX That this is not an Indian issue but an MNR issue and a Provincial issue

CARSON: Uh huh.

LACROIX Harris is involved himself, and quite uptight about it

CARSON: Okay

LACROIX: And the Ministry, I guess the Solicitor General I imagine, is to do a press release momentarily or soon saying: "Law will be upheld no matter who is involved."

CARSON: Okay

LACROIX: So I would say the signal is that we're going to end up evicting 'em.

CARSON: I would suspect.<sup>54</sup>

Carson was not just accidentally receiving this information about the Premier's views. He was actively seeking more of it. It was clearly important to him, and he clearly thought that the information was of sufficient importance to pass on to the rest of his command team. Before he went off shift, he made a point of telling his command team (Wright, Korosec and others) and Inspector Dale Linton, who would be relieving him for

---

<sup>53</sup> Exhibit P-961, Inquiry Document No. 12000067, Press release from Marcel Beaubien MPP Lambton with handwritten notes, September 5, 1995.

<sup>54</sup> Exhibit P-444 A, Tab 22.

the night shift, that there was “heat from the political side,”<sup>55</sup> “lots of political pressure,” and “strong in-house comments by Premier/Sol. Gen.”<sup>56</sup>

The political message to the OPP was clear – disregard native rights and treat the occupiers like a gang of bikers, get ready to evict them on an emergency basis, and remember the Premier is watching you.

That evening, Wright and Korosec had a chat. They had received the political message from John Carson’s briefings, all of which aligned perfectly with the intentions Wright expressed that morning of moving in and taking back the Park.<sup>57</sup> Korosec was of a like mind. In his words:

Their day [the occupiers’] will fucking come. I was talking to Mark Wright tonight. We want to amass a fucking army. A real fucking army and do these fuckers big time. But I don’t want to talk about it because I’ll get all hyped up.<sup>58</sup>

Wright and Korosec now effectively had permission from the Premier to amass a fucking army to get the occupiers out, and they were eager to do exactly that. All they needed now was an opportunity. It came the next day, September 6, 1995.

### ***A picnic in the Park***

At Ipperwash Provincial Park, September 6, 1995 was rather uneventful – up until about 8:00 anyway. There was only one event, and one non-event of any note.

---

<sup>55</sup> Exhibit P-427, Inquiry Document No. 1000152, p.450 (this comment appears only in the handwritten scribe notes and not the typed transcript).

<sup>56</sup> Exhibit P-1008, Inquiry Document No. 1007879, and Exhibit P-427, Inquiry Document No. 1000152, p. 450.

<sup>57</sup> Exhibit P-1072.

<sup>58</sup> Exhibit P-1154.

Early in the morning, the police had removed a number of picnic tables from the sandy parking adjacent to the Park (which is also part of the Stony Point reserve). The occupiers had set up the picnic tables there the night before to protect themselves from outsiders and to mark their claim to the land there. The removal happened without incident.

There was also a report of a police officer, Larry Parks, claiming to have heard between 50-100 rounds of automatic gunfire coming from deep within the Army Camp lands the previous night.<sup>59</sup> However, Larry Parks did not hear gunfire. He heard firecrackers going off in rapid succession, which in his heightened state of tension he interpreted to be gunfire. The occupiers of the Army Camp and the Park did not have automatic weapons, but they did have firecrackers.

Even during the course of the preceding Labour Day weekend, a number of campers who had been in the Park reported having heard gunshots, when what they were actually hearing was firecrackers.<sup>60</sup> Even the military had said in the past that what sounded like firecrackers being set off in the dunes may have been gunshots.<sup>61</sup> Especially from a kilometre away through the woods, it would be easy to mistake fireworks for gunshots or vice versa.<sup>62</sup>

Larry Parks told the Inquiry that it is not possible that some kinds of firecrackers could sound like gunfire when heard from a distance,<sup>63</sup> but that is a completely untenable, partisan position to take in the face of the reports of the campers on the Labour Day

---

<sup>59</sup> Exhibit P-1222, Inquiry Document No. 2003791, Statement of Larry Parks, August-October 1995; Exhibit P-426, Inquiry Document No. 1002419, p. 47.

<sup>60</sup> Exhibit P-914, Inquiry Document No. 1002055; Exhibit P-850, Inquiry Document No. 1010376; Exhibit P-902; Leslie Kobayashi, October 26, 2005, p. 53-55, 57-61, 64-72, 74-76, 82-86.

<sup>61</sup> Exhibit P-850, Inquiry Document No. 1010376; Inquiry Document No. 7000589, p. 7; Leslie Kobayashi, October 26, 2005, p. 53-58.

<sup>62</sup> Marlin Simon, September 30, 2004, p. 153-55, and October 18, 2004, p. 168-69, 171-72; Glen Morgan, April 19, 2005, p. 161-63; Karen Bakker-Stephens, April 19, 2005, p. 290, 293; Kevin Simon, December 1<sup>st</sup>, 2004, p. 189-90.

<sup>63</sup> Larry Parks, March 28, 2006, p. 329.

weekend who thought the sound of fireworks was gunfire<sup>64</sup> and in the face of common sense.<sup>65</sup>

If there were guns in the Park, Bonnie Bressette certainly would not have brought her kids and her grandkids there for a picnic on the afternoon of September 6.

Bonnie heard about the occupation and went down to visit her friends and cousins who were in the Park. There was an intimidating police presence outside the Park and a helicopter flying low overhead, but inside the Park, little was happening.<sup>66</sup> The police took hour upon hour of surveillance videos from the helicopter, which are remarkably devoid of anything of interest.<sup>67</sup> It seems all of the activity was happening outside the Park, in the Forest Command Post, and in Toronto at Queen's Park.

Bonnie was uneasy about the police presence, but Dudley consoled her and told her not to be afraid. He said "they're not going to do anything to us in here... they know we've got no weapons... They don't shoot anybody that don't have no weapons."<sup>68</sup> Dudley laughed and told how he was having a good time teasing the police officers – mooning them on occasion – and getting under their skin. Some of the officers got mad at Dudley. One even yelled at him that he would be the first to get it when they come into the Park. Dudley, as was his way, just laughed it off and did not take it too seriously.<sup>69</sup>

As lunchtime came about, Dudley and his cousin Glenn suggested to Bonnie that she go get her grandkids and some food and they could all have a picnic together.<sup>70</sup> That was a swell idea, thought Bonnie, so she returned to Kettle Point, gathered her husband, two

---

<sup>64</sup> Exhibit P-914, Inquiry Document No. 1002055.

<sup>65</sup> It is worth noting that a number of the statements of First Nations witnesses who were present at the confrontation on the night of September the 6<sup>th</sup> described the sound of gunfire to be like fireworks. See Glen Bressette, November 10, 2004, p. 133-134; Warren George, December 8, 2004, p. 191, 194; Stewart George, November 2, 2004, p. 93, 96; Statement of Nicholas Cottrelle (Doc. 1002214, p. 13); Statement of Roderick George (Doc. 1002220, p. 10); Statement of Leland George (Doc. 1002221, p. 3).

<sup>66</sup> Bonnie Bressette, September 22, 2004, p. 7-14, 16-19.

<sup>67</sup> See *e.g.* Exhibit P-66.

<sup>68</sup> Bonnie Bressette, September 22, 2004, p. 16-17.

<sup>69</sup> Bonnie Bressette, September 22, 2004, p. 18, 70.

<sup>70</sup> Bonnie Bressette, September 22, 2004, p. 19.

daughters, eight beautiful young grandchildren (ages two to fourteen) and a pile of food into a couple of cars and they all drove down to the Park for a picnic.<sup>71</sup>

Bonnie knew Dudley, and knew how dearly he loved kids. She knew Dudley would never do anything to put her grandkids in harm's way, and she knew the Park would be a safe place for her and her family to be, since the occupiers did not have guns there.<sup>72</sup>

I would never, and any mother that thinks of her children and the protection of them, 'cause I do, would ever take their children where there was guns. I took my children down there and my grandchildren to show my cousins that me and the family supported their sit-in down there.<sup>73</sup>

The weather was gorgeous, the sun was shining, and the breeze was coming off the lake.<sup>74</sup> Bonnie and her family sat out in the sun and had a picnic with Glenn, Dudley, and other Stony Pointers. They were bothered by the police helicopter buzzing low overhead, but otherwise were rather enjoying themselves. They were planning to stay for the evening, since the children in the Park wanted to go swimming with Bonnie's grandkids, but Bonnie started becoming concerned about all of the uninvited guests who had arrived for the picnic – a great number of wasps. Given that her husband and one of her granddaughters were highly allergic to bee stings, they thought it best to head home for the evening.<sup>75</sup>

Glenn and Dudley suggested that Bonnie come back later, since they were going to have a fire there in the Park. That was their big plan for the evening.

This was the Ipperwash Park occupation on September 6, 1995. A bunch of First Nations people having a picnic in an empty, closed Park. As far as anybody on the ground was concerned – MNR staff or OPP, there was nothing particularly going on in the Park that

---

<sup>71</sup> Bonnie Bressette, September 22, 2004, p. 19-21.

<sup>72</sup> Bonnie Bressette, September 22, 2004, p. 57.

<sup>73</sup> Bonnie Bressette, September 22, 2004, p. 60-61.

<sup>74</sup> Bonnie Bressette, September 22, 2004, p. 65-66.

<sup>75</sup> Bonnie Bressette, September 22, 2004, p. 22-23.

called for any kind of action.<sup>76</sup> It was quiet, and it would stay quiet until Mike Harris told his Ministers and senior civil servants that afternoon that it was an emergency.

### ***Direction from the top – creating an emergency***

#### **Deb Hutton v. the civil servants: the Interministerial Committee meeting**

After the IMC meeting on September 5, the civil service lawyers went off and worked on analysing and developing the options for removal of the occupation that had been discussed, including the possibility of laying criminal charges. They concluded that an injunction was the way to achieve the Premier's objective of removal, but that there was no case that could be made for an emergency *ex parte* injunction. The lawyers' recommendation was to seek a regular injunction, although on an expedited basis.<sup>77</sup> As the civil servants saw it, the occupation was simply a situation of a group of people trying to get some attention, and taking steps to do so in a way that was not causing anybody any harm. This was not a situation in which the public servants thought it was worth putting people at risk.<sup>78</sup> There was no need for immediate action.<sup>79</sup>

On the morning of September 6, the Attorney General also approved the course of action that the lawyers were recommending. The Solicitor General also supported the recommendation of going slow.<sup>80</sup> Julie Jai thus went into the Interministerial Committee meeting that morning having received clear guidance and authorization from the Attorney

---

<sup>76</sup> Christopher Coles, August 16, 2005, p. 102, and August 17, 2005, p. 36-39; Peter Sturdy, October 20, 2005, p. 45-46, 49; Leslie Kobayashi, October 25, 2005, p. 251-254; Ronald Vrancart, October 27, 2005, p. 43, 155, 160, 197-98, 205.

<sup>77</sup> Julie Jai, August 31, 2005, p. 29; Tim McCabe, September 28, 2005, p. 68; Elizabeth Christie, September 26, 2005, p. 150; see also Exhibit P-943, Inquiry Document No. 3001652.

<sup>78</sup> Larry Taman, November 14, 2005, p. 92-95.

<sup>79</sup> Exhibit P-943, Inquiry Document No. 3001652.

<sup>80</sup> Exhibit P-651, Inquiry Document No. 1011733; Julie Jai, August 31, 2005, p. 68-69.

General with regard to the injunction (an ordinary injunction with short service), as recommended by his legal staff.<sup>81</sup>

Deb Hutton was in attendance again at the Interministerial Committee meeting on September 6 – this time even more vocal and assertive than the previous day. She had spoken to the Premier the previous night, and the bottom line, she told the meeting, was that the Premier wanted the occupiers out of the Park – nothing else.<sup>82</sup> The Premier wanted that to happen within a day or two.<sup>83</sup> The point about timing was also passed on directly from the Premier to the Attorney General that day, as reflected in Larry Taman’s notes: “AG [Attorney General] instructed by P [Premier] that he desires removal within 24 hours.”<sup>84</sup>

At the Interministerial Committee meeting, Hutton stressed that there were to be no negotiations, and that only the OPP, and maybe MNR, should deal with the occupiers.<sup>85</sup> Hutton was adamant that not even the Chief of the Band be involved in discussions, as the “Premier’s office doesn’t want to be seen to be working with Indians at all.”<sup>86</sup> This government had a political image and ideology to uphold, and Harris did not want to project the image that he was willing to work together with First Nations.

Finally, Julie Jai had the floor and updated the IMC on the direction from the Attorney General – apply for a civil injunction as soon as possible; safety is paramount; and criminal charges are up to OPP discretion.<sup>87</sup> This was followed by some discussion

---

<sup>81</sup> Julie Jai, August 31, 2005, p. 70-71.

<sup>82</sup> Handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting of Scott Patrick (Exhibit P-517, Inquiry Document No. 2003794—also in Inquiry Document No. 1011586, p. 2).

<sup>83</sup> Handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting of Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 3).

<sup>84</sup> Exhibit P-550, Inquiry Document No. 3000776.

<sup>85</sup> See the following individuals’ handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-636, Inquiry Document No. 1011784, p. 2; Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 1); Scott Patrick (Exhibit P-517, Inquiry Document No. 2003794—also in Inquiry Document No. 1011586, p. 2); Andrew McDonald (Inquiry Document No. 1011721, p. 5); Elizabeth Christie (Exhibit P-637, Inquiry Document No. 1011800, p. 15); Leith Hunter (Inquiry Document No. 1012325, p. 1).

<sup>86</sup> Handwritten notes of Elizabeth Christie, Interministerial Committee Meeting, September 6, 1995 (Exhibit P-637, Inquiry Document No. 1011800, p. 15).

<sup>87</sup> Handwritten notes of Eileen Hipfner, Interministerial Committee Meeting, September 6, 1995 (Exhibit P-

about keeping issues local, but Deb Hutton had a problem with that too. She said: “[The] Premier’s office wants to be seen as having control.”

Hutton wanted to move expeditiously and declared that the Premier’s office was not averse to having this be seen as a political issue.<sup>88</sup> As she said the day before, this was a test for the government, and an opportunity to make a strong statement to the public about how the Harris government dealt with these kinds of issues. She wanted the Harris government to be seen as “actioning.”<sup>89</sup>

The best that the civil servants could do was to tell Hutton that the “best case” scenario would be to have an injunction with notice heard in two days. There was no case for an *ex parte* injunction, but an injunction could possibly be brought on short notice that Friday.<sup>90</sup> This was getting closer to what the Premier wanted, but still was not good enough. She knew that it was one thing to get a court order, it was quite another to implement that court order, and she knew that a court order on Friday would not mean that the occupation would be terminated by Friday. The Premier “wants them *out* in a day or two,” she pronounced.<sup>91</sup>

Hutton was unable to sway the Interministerial Committee members to change their recommendation. This was in part because OPP liaison officer Ron Fox spoke up and asserted his point about needing a long-term solution. He reminded Hutton that it is still just a dispute over land – specifically, a closed Provincial Park, and that the occupiers were asserting a colour of right to be there. He said it was imprudent to rush in, and that

---

636, Inquiry Document No. 1011784, p. 3).

<sup>88</sup> See the following individuals’ handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-636, Inquiry Document No. 1011784, p. 4); Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 2); Anna Prodanou (Exhibit P-638, Inquiry Document No. 1006192, p. 3); Scott Patrick (Exhibit P-517, Inquiry Document No. 2003794—also in Inquiry Document No. 1011586, p. 3).

<sup>89</sup> Handwritten notes of Scott Patrick, Interministerial Committee Meeting, September 6, 1995 (Exhibit P-517, Inquiry Document No. 2003794—also in Inquiry Document No. 1011586, p. 3).

<sup>90</sup> See the following individuals’ handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-636, Inquiry Document No. 1011784, p. 4-5); Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p.3 ).

<sup>91</sup> Handwritten notes of Julie Jai, Interministerial Committee Meeting, September 6, 1995 (Exhibit P-536, Inquiry Document No. 1012579, p.3 ) [emphasis added].

there needed to be time for considered action.<sup>92</sup> Deb Hutton did not lightly suffer being opposed.

In the end, the Committee members (excluding Hutton, of course), agreed that the government would seek an injunction as soon as possible (on Friday), and that criminal charges would be left to police.<sup>93</sup> Hutton was not part of that consensus. She tried again to look for other options that would achieve what Mike Harris wanted. She felt that MNR, as the property owner, could ask the OPP to remove the occupiers. She had difficulty with the notion that the Committee did not want to give political direction to the OPP to remove the Stony Pointers.<sup>94</sup>

Finally, as the meeting wrapped up, with Hutton feeling the Committee still did not appreciate the political urgency of the situation, Hutton told everyone that the Premier would take the lead on this issue.<sup>95</sup> If the IMC members would not find a way to achieve the Premier's wishes, he would find a way himself.

## **Mike Harris takes control: the Premier's Dining Room meeting**

The Interministerial Committee meeting ended at 11:45 a.m. Deb Hutton was not happy. She immediately went to brief the Premier at the end of his Cabinet meeting. He was

---

<sup>92</sup> See the following individuals' handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-636, Inquiry Document No. 1011784, p. 5); Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 5).

<sup>93</sup> See the following individuals' handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting: Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 4); Eileen Hipfner (Exhibit P-636, Inquiry Document No. 1011784, p. 6).

<sup>94</sup> See the following individuals' handwritten notes for the September 6<sup>th</sup> Interministerial Committee Meeting: Eileen Hipfner (Exhibit P-636, Inquiry Document No. 1011784, p. 7); Julie Jai (Exhibit P-536, Inquiry Document No. 1012579, p. 6); Anna Prodanou (Exhibit P-638, Inquiry Document No. 1006192, p. 6). See also Eileen Hipfner, Sep. 19, 2005, p. 148-149 where Ms. Hipfner notes the ironic delivery of this comment when Ms. Hutton is resisting the notion that political direction cannot be given to the OPP. While Ms. Hipfner believed that Ms. Hutton had grudgingly accepted that one could not give political direction, what probably actually happened was that Ms. Hutton grudgingly accepted that this committee would not give political direction to the OPP regardless of anything she said – the latter interpretation is most consistent with Hutton's other comments at the meeting.

<sup>95</sup> Handwritten notes of Eileen Hipfner, Interministerial Committee Meeting, September 6, 1995 (Exhibit P-636, Inquiry Document No. 1011784, p. 7).

even less happy that this issue was not being treated like the emergency it wasn't. Harris and Hutton acted quickly to arrange a post-Cabinet meeting to be held in the Premier's Dining Room at Queen's Park, to be attended by all of the involved Ministers – the Attorney General, the Solicitor General, and the Minister of Natural Resources – together with their respective Executive Assistants and Deputy Ministers. Harris needed to lay down his government's position on this issue and bring them into line.

Being prudent and cautious was a thing that past governments did – not the Harris government. This government wanted to be seen as “actioning,” no matter what the risk. This was an illegal occupation, which would not be tolerated for one second. There would be no aboriginal occupations on Mike Harris's watch. It was bad for his public image.

The IMC group did not get it. So Harris decided he needed to take matters into his own hands and deal with this issue politically. If the IMC recommendation and the Attorney General's instructions aligned with Harris's politics on the issue, there would certainly be no need for his intervention. Because they did not get it, they needed to be told – that was the reason for the Dining Room Meeting.

Harris was perplexed, frustrated, and angry.<sup>96</sup> He wanted to make sure the Ministers and the civil servants understood what the government (i.e., himself), expected to happen.<sup>97</sup> He let them know in no uncertain terms. “I want the fucking Indians out of the Park!” he declared in a loud voice.<sup>98</sup> This outrageous comment stunned the room to silence. Nobody dared to challenge his comment, as offensive and inappropriate as it was.<sup>99</sup>

Harris's demeanour changed after that. He knew he slipped up in revealing his true feelings in that manner, letting his emotions get the better of him. He spoke in a calmer

---

<sup>96</sup> Scott Patrick, October 17, 2005, p. 220; Charles Harnick, November 28, 2005, p. 197

<sup>97</sup> Larry Taman, November 14, 2005, p. 112.

<sup>98</sup> Charles Harnick, November 28, 2005, p. 10.

<sup>99</sup> Charles Harnick, November 28, 2005, p. 10, 11, 16.

voice for the remainder of the meeting, but while his tone of voice may have changed, the sentiments he expressed during the remainder of the meeting were no less venomous.

Harris said, “We’ve tried to pacify and pander to these people [First Nations people] for too long. It’s now time for swift affirmative action.”<sup>100</sup> He was adamant that this was not an issue of Native rights (even though it clearly was a land and burial ground issue). Clearly, Harris “couldn’t give a shit less about Indians.”<sup>101</sup>

Harris also expressed his view that the OPP made mistakes and should have just gone into the Park, and that the police would be called to account afterward for their failures.<sup>102</sup> He expressed his opinion on the police operation, criticizing the OPP for not preventing the take-over of the Provincial Park.<sup>103</sup> This kind of criticism of police operations by the Premier was dangerous and totally out-of-line, and compelled Deputy Attorney General Larry Taman to interject himself into the meeting to forcefully make the point that politicians had to be seen to not be interfering police discretion.<sup>104</sup> A similar comment was made by Deputy Solicitor General Elaine Todres.<sup>105</sup>

There was a fair bit of discussion about getting an injunction, and the difference between an emergency *ex parte* injunction and a regular injunction. This choice was a no-brainer for Harris – the sooner the better, so if there was any possibility of getting a court order the next day or even that day, every effort should be made to do so. Whether it was *ex parte* or not, he did not particularly care. What he did care about was that the occupation be treated as an emergency. The *ex parte* injunction was simply a means to an end.

Harris repeatedly insisted during his testimony that the decision to proceed with an emergency injunction on an *ex parte* basis was the consensus of the room.<sup>106</sup> But there

---

<sup>100</sup> Exhibit P-444 A, Tab 37.

<sup>101</sup> Exhibit P-444 A, Tab 37, p. 262.

<sup>102</sup> Exhibit P-444 A, Tab 37.

<sup>103</sup> Exhibit P-444 A, Tab 37.

<sup>104</sup> Ron Vrancart, October 27, 2005, p. 62; Exhibit P-515, Inquiry Document No. 3001088.

<sup>105</sup> Michael Harris, February 20, 2006, p. 204; Deb Hutton, November 23, 2005, p. 392.

<sup>106</sup> See *e.g.* Michael Harris, February 14, 2006, p. 135; February 15, 2006, p. 123, 124; February 20, 2006, p. 123-124.

clearly was no consensus. To the contrary, Harris was specifically cautioned about rushing in with an *ex parte* injunction, but paid no heed to that advice.<sup>107</sup> And no one, not even MNR which was responsible for the Park, was saying that the situation was urgent.<sup>108</sup> It was Harris, and Harris alone, who decided that the injunction would be brought on an emergency basis.<sup>109</sup> There was no consensus. Harris was not a follower. He was an assertive leader. He asserted his wishes, and nobody dared to oppose the Premier. He could not name a single person at that meeting who advocated or recommended an *ex parte* injunction, saying simply that nobody spoke against it.<sup>110</sup> If Harris now says, as he did under oath, that everybody at that meeting consented with his decision, then he is either stupid or lying, and he is not stupid.

Harris knew, based on the information he received from Larry Taman at that meeting, that there was a much lower likelihood of success on an *ex parte* injunction than on one brought with notice. Harris did want the injunction application to succeed, but he had no control over that. The most important issue for him was that the situation be treated as an emergency – both by the government and by the OPP. He definitely accomplished that.

The Premier's Dining Room meeting accomplished four things:

- It demonstrated Harris's contempt for First Nations people and their rights;
- It demonstrated that Harris either did not understand or did not care about the separation between politics and police operations;
- It turned the non-urgent situation into an emergency and caused the civil servants and the police to act accordingly; and
- It provided a means of transmission of the Premier's instructions to the OPP.

Harris and Hutton knew that there was an OPP officer in that Dining Room meeting. Ron Fox was invited to the meeting at the behest of Deb Hutton, who knew he was an OPP liaison officer from her involvement with the IMC meetings. After the IMC

---

<sup>107</sup> Exhibit P-515, Inquiry Document No. 3001088.

<sup>108</sup> Peter Sturdy, October 20, 2005, p. 45-46, 49; Leslie Kobayashi, October 25, 2005, p. 251-254; Ronald Vrancart, October 27, 2005, p. 43, 155, 160, 197-98, 205.

<sup>109</sup> Michael Harris, February 15, 2006, p. 117-118.

<sup>110</sup> Michael Harris, February 15, 2006, p. 123-129.

meeting, Deb Hutton was seething from how Ron Fox had opposed her in that meeting, and she wanted him to hear straight from the Premier how things would run. Perhaps she simply does not recall instructing that he be paged to the Dining Room meeting, but more likely she is lying to cover up the fact that she deliberately invited an OPP liaison officer to attend that meeting with the Premier, to hear the Premier's instructions. The only other person who could have had Ron Fox paged to the meeting is his boss, Deputy Solicitor General Elaine Todres, but she did not do so or feel she even had the authority to do so,<sup>111</sup> and she has no apparent motive to lie.

In case Ron Fox was not crystal clear about what the Premier wanted, Minister of Natural Resources, Chris Hodgson, made it clear in speaking to Ron Fox after the Premier had left the meeting.<sup>112</sup> Ron Fox by no means embraced the hawkish message dictated by Harris and Hodgson, but they did not need him to. They just needed him to pass on the message.

Deputy Attorney General Larry Taman had his marching orders from the Premier. He went off to find his staff and told AG lawyer Elizabeth Christie to get the injunction as fast as they possibly could – that same day if possible.<sup>113</sup> Soon after, her colleague, Tim McCabe, was on the phone to the Command Post in Forest. So was Ron Fox.

### ***More alligators and bigger alligators***

Meanwhile, back in Forest, even though there was not much going on inside the Park, John Carson was about to learn that the situation was an emergency. It was an emergency not because of anything that was going on in the Park. It was an emergency not because of any concerns that the OPP or MNR had about public safety. It was an emergency because that is what Mike Harris, 300 km away at Queen's Park, had decided he wanted the situation to be.

---

<sup>111</sup> Elaine Todres, November 30, 2005, p. 50-52.

<sup>112</sup> Exhibit P-444A, Tab 37.

<sup>113</sup> Elizabeth Christie, September 27, 2005, p. 66, 71, 75-76.

Ron Fox explained this all to John Carson. He started off by explaining what the government wanted:

FOX: They are making moves towards getting an ex-parte injunction, in other words, one that doesn't have to be served

CARSON: Okay.

FOX: **What they have to show is emergent circumstances**

CARSON: Right.

FOX: **and the exigencies of the situation are kind of increasing exponentially**

CARSON: Okay

[...]

FOX: Now what **the course the political people are really pushing**, and that's another story and I'll just fill you in so you know about that.

CARSON: Okay

FOX: But I mean **they're pushing to get this done quick**

CARSON: Yes, yeah okay, I hear ya

[...]

FOX: And what they're thinking of is they'll either do their presentation to the judge tomorrow or tonight.

CARSON: Okay

FOX: And what they're thinking in lie of having an affidavit from you

CARSON: Yes

FOX: If you'd be willing to give the viva voce evidence.

CARSON: Oh, appear with them.<sup>114</sup>

Then, Fox updated Carson on what he just went through at the Premier's Dining Room Meeting:

FOX: John, we're dealing with a real redneck government

CARSON: Okay

FOX: They are fucking barrel suckers, they just are in love with guns.

CARSON: Okay

FOX: There's no question

CARSON: So...

FOX: They couldn't give a shit less about Indians.

CARSON: All right, they just want us to go kick ass.

FOX: That's right.

Carson knew exactly what this government wanted. It wanted the OPP to go kick ass – in particular, to go kick some Indian ass. Carson said that he was not prepared to do that yet, although it is apparent that some of his staff, particularly Mark Wright and Stan Korosec were willing and ready.

Fox explained a little more about what happened at that meeting, and how the Premier had been critical of the OPP:

FOX: Well, John, I'm here to tell you this guy [the Premier] is a redneck from way back

CARSON: (laughs)

---

<sup>114</sup> Exhibit P-444 A, Tab 37 [emphasis added].

FOX: And he came right out and said – I just walked in on the tail end of this – “the OPP in my opinion made mistakes. They should have done something right at the time.” And he said: “That will, I’m sure, all come out in an inquiry some time after the fact.”

Now, Carson knows not only that the Premier wants the OPP to move quickly to go kick some Indian ass, but that he has been following this and does not like what he has seen from the OPP so far.

Finally, Ron Fox gets to the point – what he needs to know from John Carson. Does John Carson consider the situation an emergency such that the government could get the *ex parte* order it wants?

FOX: ... Anyway, I guess the upshot is what ... Tim McCabe is asking me. He said is, **in your opinion can we say with certainty to a court that there is a need for an emergent order that makes it an *ex parte* order?**

CARSON: **Well, I think we can.**

FOX: Yes

CARSON: I think we can.

FOX: Are you going to base that John on the progression of events?

CARSON: That’s right

FOX: Yeah.

CARSON: And you know **I’m prepared to appear and give that evidence** if, you know, if the Chief and the Commissioner feels that’s the direction we should be going, and **I don’t see any reason why we can’t support that.**<sup>115</sup>

---

<sup>115</sup> Exhibit P-444 A, Tab 37 [emphasis added].

Just like that, John Carson had bought into the emergency mindset that Harris wanted to create. Carson had heard what the political people, namely Harris, wanted to do – treat this as an emergency and bring an emergency injunction to court that night or the next day. In order to get an emergency *ex parte* injunction, there had to be circumstances justifying such an order on an *ex parte* basis. Carson could have – and should have – said that there was nothing particularly going on in the Park which was causing any public safety risk, which was the truth. Instead, he bought into the emergency mindset that the Premier was trying to manufacture. If that was what the government wanted, John Carson was prepared to support it. Up until that point, Carson never said that the OPP needed or wanted an emergency order. He only agreed to support that view after being told it was what the government wanted.

As Carson was getting the news from Queen’s Park, Mark Wright conducted the 2:27 briefing of the OPP command team. There was not much going on at the time. As Stan Korosec reported, “things aren’t too bad today.”<sup>116</sup> Wright already knew that an injunction was in the works, but was still under the impression that there would be lag time, and that the injunction would probably be heard on Friday.<sup>117</sup>

Meanwhile, after speaking with Ron Fox, John Carson was receiving the latest news from Queen’s Park through Tim McCabe of the Attorney General’s office. Tim McCabe confirmed that he would be seeking an *ex parte* injunction tomorrow in Sarnia. John Carson, already having committed himself to supporting the government’s side, let McCabe know “we want to help out in any way we can, like, don’t get me wrong here. It’s just a matter of doing it right the first time.”<sup>118</sup> McCabe’s primary concern, naturally, was whether an argument could be made that there was an emergency that would justify bringing the court application *ex parte*.

---

<sup>116</sup> Exhibit P-426, Inquiry Document No. 1002419, p. 62.

<sup>117</sup> Exhibit P-426, Inquiry Document No. 1002419, p. 62.

<sup>118</sup> Exhibit P-444 B, Tab 34, p. 269.

MCCABE: But we'll be seeking this *ex parte* as I say which means without notice, and in those circumstances, it's important to be able to show some kind of urgency.

CARSON Yes.

MCCABE In order to demonstrate that if the order is not granted or if the time necessary to give the period of notice that, you know, serious consequences could occur.

CARSON Right.

MCCABE: I think the thing that has gotten people particularly concerned here is the reports of gunfire last night.

CARSON Yes

MCCABE And the fire

CARSON Yes

MCCABE And the alcohol and those sorts of things. Are, I mean, does that worry you?

CARSON Yes.

MCCABE Ah well

CARSON There's – there's –

MCCABE That's, that's the answer to the question

CARSON Yeah

MCCABE You know, that's the point.

CARSON Okay, but I say that, but I have to qualify that somewhat

MCCABE Yeah

CARSON The fire was set up as an ambush, okay, our guys got ambushed to down and deal with the fire on the roadway and got bombarded with rocks which caused damage to

windshields the three vehicles, and fortunately no officers were hurt.<sup>119</sup>

MCCABE Right

CARSON The gunfire was back in the bush. I have to be frank with you we have not had a weapon pointed at us. We haven't seen one fired in any direction and there is no reason to believe that the firing that we heard last night was anything more than audio for our benefit.

MCCABE I see.

CARSON Okay so when you hear that there's gunfire you can't really use that, while you – I mean – it's a significant factor from a safety point of view from my perspective in that I know that obviously there's weaponry in there.

MCCABE Okay.

CARSON But to say from a safety point of view that it's been – that our officers have been threatened with weapons, I can't say that

MCCABE Right.

CARSON Okay

MCCABE I suppose from a public safety point of view if you take the view that the occupiers are themselves members of the public, you know, there's this kind of stuff going on.

CARSON Well, there's no doubt, absolutely, like there is no doubt about it. I mean, it's, you know, certainly not something that's going to give you a fuzzy warm feeling.

MCCABE Yeah

---

<sup>119</sup> This refers to an incident the previous evening, after the occupiers had set up some picnic tables and a campfire in the sandy parking lot adjacent to the park (i.e., it was not on the paved "roadway" as is suggested by Carson). Some officers responded by ramming the picnic tables with their cruisers to push them back towards the park. The occupiers responded by throwing some rocks at the cruisers. It was not an ambush, as Carson suggested.

CARSON Yeah

MCCABE Okay

CARSON Yeah, I mean, the fact that there is gunfire going on is a concern and particularly when it takes and it happens in conjunction with other events, I mean, there is a subtle message there, I guess, as I was saying.

MCCABE Yep

CARSON You know, whether you see it or not, but you know, if a judge asked me specifically did we see gunfire, where did we see weapons, or was any weapons pointed at us, or were we, uh, felt our safety in jeopardy because of those weapons we'd have to say we have not been directly threatened. I mean –

MCCABE Right

CARSON Those are the subtleties that you are used to, you know, as a tactical approach to us

Up to this point, Carson's expressed concern has been that what has been going on does not give him "a fuzzy warm feeling" and that "there is a subtle message there." Even if taken at face value that there was gunfire overnight (which there was not, as the occupiers did not have automatic weapons, and what the police heard must have been firecrackers), it appeared that Carson did not consider it cause for urgency.

Then, McCabe asks him the big question:

MCCABE: If the judge puts it to you that, as a professional police officer, do you think this injunction should be granted on this urgent basis, what's your answer to that?

CARSON Yes, absolutely.<sup>120</sup>

---

<sup>120</sup> Exhibit P-444 B, Tab 34.

Carson's answer to that question is stunning given that he was unable to justify the gunfire incident as being a major, urgent issue, and as the only other incident he referred to was the alleged "ambush" which happened the night before, which was dealt with by the removal of the picnic tables from the area that very morning, and which was not something that was an ongoing concern for the OPP on September 6.

In June 2005, the testimony that Carson gave was that it did not seem like an urgent situation at the time, and that was the truth.<sup>121</sup> In June 2005, he agreed that all was quiet up to at least four o'clock that afternoon. Chief Superintendent Chris Coles and Superintendent Tony Parkin also observed that there did not appear to be any urgency when they were present in the area up to about 4:00 on the afternoon of September 6, 1995. They observed that things were quiet, and that there was nothing particularly happening at the Park. There was no emergency which would have required officers to do something. There was no hint that things would escalate. The expectation was that police would continue to contain the situation, maintain the checkpoints, and try to open communications with the occupiers.<sup>122</sup> Even the on-site MNR staff were saying things were quiet that afternoon.<sup>123</sup>

Given the absence of anything on the ground that justified calling the situation an emergency, there is only one plausible explanation for why John Carson was willing to say on September 6, 1995 that there was urgency. He expressly wanted to support the government, and an urgent injunction is what the government wanted. Perhaps unwittingly, he had bought into Harris's emergency mindset. Mark Wright and Stan Korosec did likewise.

They knew there was no urgency. However, they knew the Premier wanted to deal with the occupation.<sup>124</sup> They knew the Premier wanted to treat the situation as an emergency.

---

<sup>121</sup> John Carson, June 6, 2005, p. 196.

<sup>122</sup> Christopher Coles, August 17, 2005, p. 38-39; Tony Parkin, Feb. 9, 2006, p. 303-304.

<sup>123</sup> Peter Sturdy, October 20, 2005, p. 45-46, 49; Leslie Kobayashi, October 25, 2005, p. 251-254.

<sup>124</sup> Exhibit P-426, Inquiry Document No. 1002419, p. 53 ("Premier and Solicitor General want to deal with

Wright, Carson, and Korosec considered themselves to be there to act on behalf of the government.<sup>125</sup> And they were willing to act in a way that suited the government's interests.

As Carson told his colleague Jim Hutchinson out in British Columbia later that afternoon, "we've had some alligators ... some political pressures if you would."<sup>126</sup> John Carson lost the battle with the alligators. He didn't even put up a fight. He even welcomed one of the alligators' minions to the Command Post at the end of his shift.

Marcel Beaubien, the irate MPP who had been passing information from the Premier's Office to Sgt. Lacroix the previous day, joined Inspector John Carson and Inspector Dale Linton for a meeting in the Command Post at the end of Carson's shift on September 6, 1995. According to OPP Commissioner Gwen Boniface, his mere presence there was inappropriate.<sup>127</sup> So was what he had to say to the operational police officers. At the outset of the meeting, Beaubien announced that he was in touch with the Premier.<sup>128</sup> He expressed the frustrations of some of his constituents (the white ones, not the native ones), and made the point that they did not feel they were being treated equally. He said he did not mind taking controversy, and that if the police were not able to handle the situation, they should get someone who can. Finally, before leaving the meeting, he stressed that the Premier is in constant touch and there are good communications.<sup>129</sup> The message Beaubien was conveying was, clearly, that the Premier is watching, and that he is watching on behalf of the Premier. It turns out that he was exaggerating this point, but there is no way the police he was speaking with could have known that at the time.

It was still quiet at the Park, although some of the Stony Pointers were becoming a little concerned, after hearing reports that something might be about to happen. The message that Harris wanted "the fucking Indians out of the Park" leaked out of the Premier's

---

this").

<sup>125</sup> Exhibit P-1072; Exhibit P-444 B, Tab 34, p. 269.

<sup>126</sup> Exhibit P-444 B, Tab 42, p. 282.

<sup>127</sup> Gwen Boniface, June 14, 2006, p. 200.

<sup>128</sup> Exhibit P-426, Inquiry Document No. 1002419, p. 69.

<sup>129</sup> Exhibit P-426, Inquiry Document No. 1002419, p. 69-71; Exhibit P-427, Inquiry Document No. 1000152, p. 468-472.

meeting and made its way to Tom Bressette, Chief of the Kettle and Stony Point First Nation. Bressette rushed to call the local radio station and convinced the announcer to broadcast a warning that something was about to happen.<sup>130</sup> Moreover, on the evening of September 6, 1995 Ron French went over to Camp Ipperwash to talk to the occupiers. He met with several families at around 8 o'clock and mentioned to them his concern over the heavy police presence he observed, the way they were outfitted, the numerous guns, and the potential for people to get hurt.<sup>131</sup> For those reasons he suggested that the children and women should leave the Park.<sup>132</sup>

---

<sup>130</sup> Tom Bressette, March 2, 2005, p. 105-111.

<sup>131</sup> Ron French, June 28, 2006, p. 52-53, 55.

<sup>132</sup> Ron French, June 28, 2006, p. 53.

## **CHAPTER 6: POLITICAL PRESSURE TAKES ITS DEADLY TOLL – THE EVENING OF SEPTEMBER 6, 1995**

### ***How a peaceful situation turned deadly***

Ron French's warning would prove to be tragically prescient. As he was meeting with the Stony Pointers, a chain of unfortunate events was being set in motion that would culminate in an OPP sniper's bullet piercing Dudley's chest three hours later.

Things were quiet before 7:50 p.m., which is coincidentally around the time that Ron French came to Stony Point. However, the half hour or so that followed turned that around drastically, from relative calm to full mobilization of deadly force. By 8:24 p.m., A/S/Sgt. Mark Wright and Sgt. Stan Korosec had escalated trivial events into an emergency and amassed a riot squad to confront the occupiers. The events then ran their course like a speeding runaway train that nobody could or would stop until someone died.

### **Before 7:50 p.m.: The Calm Before the Storm**

As evening approached on September 6, there was still not much particularly going on at Ipperwash Park. Mark Wright had been dispatched prior to 6:00 p.m. to go and deal with a group of upset property owners meeting about the situation,<sup>1</sup> but there were no other indications of potential problems at the Command Post. John Carson was preparing to leave at the end of his shift and briefed Dale Linton who would be relieving him for the night shift. Carson left for dinner by about 7:30 p.m., expecting that the relatively

---

<sup>1</sup> Wright chief, Feb 22 06, p. 249.

peaceful status quo would be maintained overnight.<sup>2</sup> According to him, nothing substantial was happening, he was not anticipating or preparing for any major incidents, and all he was expecting to do that evening after dinner was to meet Mark Wright to discuss the injunction hearing scheduled for the next morning.<sup>3</sup>

In terms of what had been happening on the ground, particularly at the sandy parking lot, Sgt. Huntley noted that, aside from a couple reports early in the morning, there were “No further incidents of real concern.”<sup>4</sup> As was the case the previous evening, Checkpoint Alpha, which the OPP had set up near the sandy parking lot during the day, was pulled back out of sight of the Park as part of the shift change around 7:37.<sup>5</sup> After Checkpoint A was pulled back, a cruiser came up from the beach through the sandy parking lot at 7:39 without incident or being stopped, although it was noted that four males were outside of the Park fence, with some holding bats.<sup>6</sup> There is no indication that the OPP viewed this as a concern at this time as the OPP apparently did nothing to follow up on this report. Some of the occupiers had probably just wandered out since the checkpoint had just been pulled back.

Back in the Command Post, Inspector Dale Linton spoke to lawyer Tim McCabe of the Ministry of the Attorney General at about 7:45 about the injunction.<sup>7</sup> In particular, McCabe asked them to attempt to serve the injunction that night, and Linton agreed.<sup>8</sup> He also asked to speak to Wright in order to prepare for the next morning,<sup>9</sup> and Linton subsequently called and left a message for Wright to call Linton back at 7:49.<sup>10</sup>

Throughout both of these calls, there are no indications of any issues with respect to the Park or the sandy parking lot.

---

<sup>2</sup> Carson testimony, May 19 2005, p. 113; June 6 2005, p. 199-200.

<sup>3</sup> Carson testimony, June 6 2005, p. 199-200.

<sup>4</sup> Ex. P-1437, p. 4; Huntley testimony, Apr. 27, 2006, p. 176-177.

<sup>5</sup> Huntley testimony, Apr. 27, 2006, p. 176-177; Chatham Logger Tape Summary at 19:37.

<sup>6</sup> Ex. P-1110, Ex. P1111.

<sup>7</sup> Ex. P-426, p. 72; P-750.

<sup>8</sup> Ex. P-750.

<sup>9</sup> Ex. P-750.

<sup>10</sup> Ex. P-1112.

Meanwhile, Wright had been out at the meeting being held by some of the upset local property owners. About 20-40 people, including Mayor Fred Thomas, had congregated in the MNR parking lot just down the street from the Park.<sup>11</sup> They were clearly frustrated and ready to march to the Park to express their frustration with what was going on.<sup>12</sup> Wright met with this group for about an hour, and was able to defuse the situation, convincing them that it would not be a good idea to march upon the Park and that it would complicate the situation if they did.<sup>13</sup> The meeting ended, and Mark Wright waited until the last of the cottagers dispersed to ensure that they would not go down to the Park.<sup>14</sup> Nothing ultimately came out of this property owners' meeting, except that Wright, who was already aware that the Premier wanted action, now knew there was also strong pressure from the locals to do something quickly about the situation before they took matters into their own hands.

### **7:50 – 8:24 p.m.: Sending a runaway train down the track – the unauthorized deployment of the riot squad**

#### *Wright and Korosec set the CMU train in motion*

It was no secret that Mark Wright was agitating for action.<sup>15</sup> Mark Wright had spoken to Stan Korosec the night before about wanting to “amass a real fucking army to do these fuckers.” That morning, Wright had advocated going in and grabbing “those fucking kids” and arresting them for trespassing.<sup>16</sup> The previous morning, Wright was telling Inspector Ed Robertson that their intention was to go and take back the Park.<sup>17</sup>

---

<sup>11</sup> Wright testimony, Feb 22 2006, p. 255 - 259; Ex. P-1105 – basis that meeting was at MNR parking lot; ; Ex. P-1106 – 18:20 radio transmission that Wright speaking with person looking for at Lima 2.

<sup>12</sup> Wright testimony, Feb 22, 2006, p. 256-257.

<sup>13</sup> Wright testimony, Feb. 22 2006, p. 258, 262; Ex. P-1107 – 19:25 radio transmission that everything 10-4 (alright per Wright testimony, Feb. 22, 2006, p. 267) from Wright.

<sup>14</sup> Wright testimony, Feb. 22-2006, p. 258-259.

<sup>15</sup> Exhibit P 1343.

<sup>16</sup> Exhibit P 1365, Mark Wright recorded in the background.

<sup>17</sup> Exhibit P1072, p. 2.

Wright's desire to take aggressive action against the occupiers had not waned over the course of the occupation so far. If anything, he was emboldened by the political messages he was receiving, and the meeting with angry residents firmed his resolve to do something, and to interpret events in a way that would justify his wishes. His opportunity to bring some kind of action about came shortly after leaving the MNR parking lot after the property owners' meeting.

Instead of heading straight back to the Command Post after leaving the MNR parking lot, Mark Wright headed towards the Park.<sup>18</sup> He noticed there were some individuals in the sandy parking lot, a few of whom appeared to have baseball bats or something in their hands. He *voluntarily* stopped at the edge of the road by the sandy parking lot (i.e., the occupiers did not stop him).<sup>19</sup> One individual came towards the vehicle, and Wright had a brief conversation with him.<sup>20</sup> Everyone else was some distance away. According to Wright, he asked what these individuals were doing, and he was told to leave, that it wasn't his problem, and that he best get out of there.<sup>21</sup> After less than a minute,<sup>22</sup> Wright drove off and continued up Army Camp road toward the OPP checkpoints there.

At about 7:51 p.m., just after Wright cleared out of the area, Gerald George was driving towards the sandy parking lot.<sup>23</sup> He stopped there at the side of the road, and Stewart George, one of the Stony Point occupiers, (who was not holding a bat or anything else) came up to speak with him.<sup>24</sup> The two knew each other as they were both members of the Kettle and Stony Point First Nation (in fact Gerald George was a band councillor) and as they had at one time worked together.<sup>25</sup> They were not on particularly good terms though since Gerald George had been publicly outspoken against the Stony Pointers. The two had a bit of an argument about a letter that Gerald George had written to a newspaper

---

<sup>18</sup> Wright testimony, Feb 23 2006, .p. 19.

<sup>19</sup> Wright testimony, Mar. 20 2006, p. 133.

<sup>20</sup> Wright testimony, Feb 23, 2006, p. 21, 23.

<sup>21</sup> Wright testimony, Feb 23 2006, p. 24.

<sup>22</sup> Wright testimony, Feb 23, 2006, p. 26.

<sup>23</sup> Ex. P-123.

<sup>24</sup> Ex. P-123; Gerald George recalls that he stopped because Stewart George waved him over (Gerald George testimony, Jan 13 2005, p. 83, 87), although Stewart George has no recollection of doing so.

<sup>25</sup> Gerald George testimony, Jan 13 2005, p. 90.

criticizing the Stony Pointers.<sup>26</sup> Needless to say, there was no love lost between Gerald George and the Stony Pointers.

As Gerald George pulled away, Stewart George picked up a rock and threw it at the departing car. The rock connected with the driver's rear side fender, causing about \$400 worth of damage.<sup>27</sup> Gerald George continued driving up Army Camp Road to OPP Checkpoint C, where he stopped to speak to the officers and file a report. An officer there radioed to Wright (who had just recently passed that checkpoint on his way back to the Command Post) at about 7:52 p.m. to inform him of the report made by Gerald George. Wright asked for an officer to take a statement from Gerald, adding, "you know what I'm after."<sup>28</sup>

What Mark Wright was after was information that would justify some kind of aggressive action against the occupiers. He never quite got that kind of information, so he proceeded to distort reality and interpret trivial facts on the ground in an unreasonable and prejudicial way until he had built up a version of facts (which did not resemble reality) that could justify amassing a fucking army to go to war against the Indians. Harris would have approved. Within the context of the political pressure infecting the police operation at Ipperwash, Wright was put in a position of consciously or subconsciously looking for facts which would support characterizing the occupation as an emergency.

At 7:54 p.m., Wright radioed the Command Post, and reported that "there were up to eight individuals" with "bats and stuff," and they just damaged a vehicle.<sup>29</sup> He vaguely, but dangerously, speculated that: "they're up to something," and accordingly suggested: "I think we should be moving some people down that way."<sup>30</sup> Stan Korosec and Dale Linton were at the Command Post at the time and got the message.<sup>31</sup>

---

<sup>26</sup> Ex. P-123, Gerald George testimony, Jan 13 2005, p.87-88. Article can be found at Ex. P-73.

<sup>27</sup> Ex. P-123, Gerald George testimony, Jan 13, 2005, p. 89, 95-96; Ex. P-474, p.1; P-475, p.1.

<sup>28</sup> Ex. P-1114, P-466.

<sup>29</sup> Ex. P-1115, P-466.

<sup>30</sup> Ex. P-1115, P-466.

<sup>31</sup> Ex. P-1115, P-466. Although Graham was the one who heard the message, he immediately told Korosec

By 8:00 p.m., Wright was already back at the Command Post. There, he and Korosec proceeded to form a Crown Management Unit (CMU), and send it towards its destination – the Park.

Either just prior to, or just after his arrival at the Command Post, Wright admits that he instructed Korosec to hold back the Emergency Response Team (ERT) day shift.<sup>32</sup> That was done, but then they went a few steps further – they instructed the ERT day shift to suit up in CMU hard tac<sup>33</sup> and initially deployed it to the Tactical Operations Centre (TOC) near Ipperwash Park.<sup>34</sup> In short, as of about 8:00 p.m. on September 6, 1995, Wright and Korosec had decided to use the day shift ERT as a CMU to confront the occupiers, and they began to implement their decision by specifically ordering the officers to suit up in their CMU gear and deploying them to the Park area.

#### *The CMU Train Leaves Without Authority*

Formation of a CMU is an order that requires the authority and approval of the Incident Commander. It is a decision that obviously ratchets up operational activity and tensions, and is not a decision that is appropriately left to subordinates. However, such authority from the Incident Commander was not in place when Wright and Korosec gave the orders to suit up in CMU hard tac. Proper approval could not have been given until 8:24 p.m. at the earliest, based on what was happening in the Command Post (as detailed below). The lack of authorization may explain why the CMU was quickly recalled after being

---

(see e.g. Graham testimony, April 21, 2006, p. 78-79).

<sup>32</sup> Wright testimony, Mar. 20 2006, p. 165.

<sup>33</sup> Appendix A contains tabular analyses of the notes of the officers who were present at this debriefing, and nearly all of the notes are consistent regarding hearing the contents of Wright's report and being ordered to suit up in CMU hard tac during the debriefing or right at the end of the debriefing. In addition, those notes that mentioned specific times about the order to suit up have a very limited range around 20:00. Such an order also fits with the evidence of George Hebblethwaite as he had to leave Forest with Weverink at about 20:10 in order to pick up CMU gear he had left in Grand Bend (i.e. the order had to be given before 20:10) (Hebblethwaite testimony, May 15 2006, p. 264).

<sup>34</sup> York testimony, May 18 2006, p. 20, p. 140-143.

suiting up and initially deployed to the TOC.<sup>35</sup> This deployment and recall is reinforced by the cryptic radio transmission by Korosec at 20:19:

Korosec to 3 and 6 District ERT that *just left Forest. 10-19 [return] to Forest okay. 10-19 to Forest. 3 and 6 District teams 10-19 to Forest.*<sup>36</sup>

In this radio transmission, Korosec was recalling the ERT members that he and Wright had just deployed toward the Park, probably because they realized they did not yet have Dale Linton on side. Wright and Korosec had caused the CMU train to leave the station, deploying the CMU to the Park area, without any authority whatsoever.

It is certain that there was no authorization to suit up or deploy CMU before 8:24 p.m. Not a single witness at the Inquiry and not a single document in the database indicates that there was any approval from the Incident Commander to form up or deploy CMU before that time. To the contrary, the evidence of what was happening at the Command Post proves that such authorization was in fact not given.

At 20:02, Wright was in the Command Post and talking to Linton about the situation.<sup>37</sup> Linton wanted to send some officers from the checkpoints along with K-9 to deal with it immediately,<sup>38</sup> but Wright disagreed.<sup>39</sup> According to Wright's testimony, he instead just wanted to tell these individuals to go back into the Park with "a significant number of officers",<sup>40</sup> which appears to be on a larger scale than what Linton suggested, otherwise Wright would have agreed with Linton at that time. Linton decided to wait and see Poole's report from the Checkpoint.<sup>41</sup>

---

<sup>35</sup> York testimony, May 18 2006, p. 20, p. 140-143).

<sup>36</sup> Ex. P-1321[emphasis added]. Hebblethwaite could also not explain this transmission as he was firm that everybody was present at the debriefing (May 15, 2006, p. 270). In addition, the analysis tables at Appendix A show that no officer mentions leaving and then being recalled unless it was exactly at 20:00, which is consistent with the fact that Wright had held the ERT's day shift (Mar. 20 2006, p. 165) and that everyone was already present at Forest.

<sup>37</sup> Ex. P-426, p. 73.

<sup>38</sup> Ex. P-426, p. 73 at 19:55 and 20:02.

<sup>39</sup> Ex. P-427, p. 474.

<sup>40</sup> Wright testimony, Feb. 23, 2006, p. 63.

<sup>41</sup> Ex. P-426, p. 73.

Wright then began his telephone call with Carson at 20:05,<sup>42</sup> during which he expressed a number of comments and frustrations. In particular, he said “I got the whole day shift here with canine”<sup>43</sup> and he complains that Linton is waffling.<sup>44</sup> He also said, “daylight’s a wasting,”<sup>45</sup> and urged Carson: “Don’t you say we go get those fucking guys?”<sup>46</sup> These statements show that Wright was looking for Carson’s endorsement for the orders he and Korosec had already given to use ERT. Instead, Carson specifically asked what did Linton want to do, and further stated that it was Linton’s call.<sup>47</sup>

Meanwhile, Linton decided to call out TRU at 20:08 after being told that there was a dump truck and school bus “roaring around” and possibly moving towards the roadway.<sup>48</sup> Wright overheard Linton’s order while speaking with Carson, and relayed to Carson that Linton had just called out the Tactics and Rescue Unit (TRU) – the sniper squad – which greatly surprised and concerned Carson.<sup>49</sup> Carson told Linton to call him if he was calling out TRU.<sup>50</sup> Linton’s decision to call out TRU (which he did for the purpose of making arrests) was an additional drastic escalation of the OPP response to the occupation, but it was not accompanied by any authorization to form up a CMU.

At 20:21, Korosec called Lacroix and told him to suit up, come down, and *lead CMU*,<sup>51</sup> still without Linton’s authority.

Carson and Linton connected at 20:22, and it was during this call that Carson *convinced* Linton not to use TRU but to use ERT instead, about two minutes into the call.<sup>52</sup> It is thus only at the 20:24 mark that Linton would have *begun* giving *any* orders at all

---

<sup>42</sup> Ex. P-444B, tab. 48.

<sup>43</sup> Ex. P-444B, tab 48, p. 309.

<sup>44</sup> Ex. P-444B, tab 48, p. 309.

<sup>45</sup> Ex. P-444B, tab 48, p. 309 [corrected version – Wright testimony, Feb. 23, 2006, p. 74-75].

<sup>46</sup> Ex. P-444B, tab 48, p. 310.

<sup>47</sup> Ex. P-444B, Tab 48, p. 309-311.

<sup>48</sup> Ex. P-426, p. 73.

<sup>49</sup> Ex. P-444B, Tab 48, p. 312 [corrected version – Wright testimony, Feb. 23, 2006, p. 74].

<sup>50</sup> Ex. P-444B, Tab 48, p. 313.

<sup>51</sup> Ex. P-426, p.74; Lacroix testimony, May 9, 2006, p. 294.

<sup>52</sup> Ex. P-444B, Tab 52, p. 331-334; Ex. P-428, Region 48/49.

regarding CMU, and it is important to note that during all of the phone calls to this point, there were absolutely *no* references to a CMU, only to potential use of the ERT.

Before Linton was convinced to use ERT, Wright and Korosec had already given orders to the ERT day shift to suit up in CMU hard tac, initially deployed the CMU to the Park area, and recalled them at 20:19. At about 20:00, Wright and Korosec had already made the decision to confront the Park occupiers with a CMU, and they spent the next 24 minutes working to get “official” approval for the orders they had already given. Given their significant positions and roles within the Incident Command structure,<sup>53</sup> they also created an environment where no other option aside from a CMU deployment could be considered. In short, Wright and Korosec caused the CMU train to leave the station without any authority towards its fatal destination.

### **The unwillingness and inability to stop the runaway train**

Almost everything that the OPP did after 8:24 p.m. and leading up to the shooting of Dudley George resulted from events set in motion by Wright and Korosec in the preceding half-hour. Wright and Korosec sent the runaway train down the track, and nobody was willing or able to stop it. In the politically charged environment in which the police were operating and within the emergency war-like mindset that had taken hold, the momentum that Wright and Korosec created in mobilizing massive force was too strong.

The emergency war-like mindset that had taken hold of the OPP at that time was perhaps best described by Wright himself during his telephone call with Tim McCabe at 8:25.<sup>54</sup> The language that Wright used to describe what was happening at this time speaks for itself. “We’re taking all the marines down now,” he said. “We’re going to war now.”<sup>55</sup>

---

<sup>53</sup> Ex. P-461. Specifically, Korosec was the person in charge of the ERT teams, and Wright was the assistant commander to Carson with significant responsibilities and credibility (Carson testimony, June 6, 2005, p. 20-22, 118-119). In particular, he was Carson’s right-hand person (Carson testimony, May 12, 2005, p. 28).

<sup>54</sup> Ex. P-463, P-464.

<sup>55</sup> Ex. P-464.

Despite the fact that Linton had only been convinced to use *ERT* no more than *one minute* before this phone call started, Wright seems to have a very good idea of what would happen that night. Wright must have had a pretty good idea of what was going to happen because he and Korosec had set it in motion themselves. OPP troops were going up to the Park “to do these guys” – to confront the occupiers with massive force.<sup>56</sup>

Wright and Korosec and the events they unleashed escalated the situation to the point where the Incident Commander, Dale Linton, was intending to deploy TRU to make arrests. Clearly arresting the occupiers was what Wright and Korosec wanted to do. Earlier, Wright was urging Carson, “don’t you say we go get those fucking guys,”<sup>57</sup> and later, he proposed: “Let’s arrest all for mischief that are there.”<sup>58</sup> He obviously expected a large number of arrests, as he was already discussing a plan to use the garage as a bull pen or the location where he would process the arrests.<sup>59</sup> This is consistent with a radio call that went out at 22:26, in which an OPP officer communicated to the drivers of the prisoner vans: “I don’t want those prisoner vans 10-19 unless they’re full.”<sup>60</sup>

Carson arrived back at the Command Post at 20:29,<sup>61</sup> and, in his words, “It was chaos when I arrived back there.”<sup>62</sup> Chaos! There had been a CMU formed and deployed and then recalled, part of the TRU team had arrived in Forest, all kinds of wacky “intelligence” was coming in, and things were a mess. But the troops had already been mobilized by Wright and Korosec, and Carson was expecting that ERT would be taking some kind of action against the occupiers based on his phone calls with Wright and Linton. Within eight minutes of Carson’s arrival, he made a second decision to mobilize CMU,<sup>63</sup> in effect ratifying the massive use of force that Wright and Korosec had set in motion well before Carson arrived on the scene.

---

<sup>56</sup> Ex. P-1155.

<sup>57</sup> Ex. P-444B, Tab 48, p. 310.

<sup>58</sup> Ex. P-426, p. 78 at 21:28.

<sup>59</sup> Ex. P-426, p. 78 at 21:43; Wright testimony, Feb. 23, 2006, p. 218.

<sup>60</sup> Summary of Chatham Logger Tape 0146, Track 12 at 22:26; see also at 11:16:15 mark of Chatham Logger Tape 0146, Track 12.

<sup>61</sup> Ex. P-426, p. 74.

<sup>62</sup> Carson testimony, June 8, 2005, p. 169.

<sup>63</sup> Carson testimony, June 8, 2005, p. 221.

Wright and Korosec had set the train out of the station towards the Park, where it would inevitably do serious damage. When Carson arrived on the scene, he could have hopped on and brought that train to a stop, but instead he let it keep going.

As the CMU train continued its journey towards its fatal destination, it passed a key point that would have stopped the train in its tracks: neither Carson nor Korosec informed CMU leader Lacroix about the supposed intelligence regarding alleged weapons during their briefing of him.<sup>64</sup> Lacroix clearly indicated that if he had been informed of this supposed intelligence, he would not have advanced from Forest, as it would not have been a job for the CMU until the existence of automatic weapons was disproved.<sup>65</sup> The failure to provide this information to Lacroix was either intentional or grossly incompetent, particularly given the obvious caution that Lacroix would exercise in order to protect his officers.<sup>66</sup> Either of these possibilities is disturbing, especially since such information had been provided to the TRU team for their information.<sup>67</sup>

Within the politically-charged war-like emergency mindset that had taken hold after 8:00 p.m., the deployment of a massive force of riot police and snipers to Ipperwash Park to confront the occupiers could only have one result. The occupiers were going to defend their treaty lands, and they were not going to abandon their lands and their ancestors' burial grounds. A clash was inevitable. It was not just foreseeable – it was almost certain. There would be violence that night.

There was violence against Cecil Bernard George, who suffered at least 28 blunt instrument trauma injuries as he was whacked and kicked by police officers.<sup>68</sup> There was violence against Nicholas Cottrelle and Warren George, who drove out of the Park in an attempt to rescue Cecil Bernard George, and who were fired upon by police for their

---

<sup>64</sup> Lacroix testimony, May 9, 2006, p. 340-341.

<sup>65</sup> Lacroix testimony, May 9, 2006, p. 341-342.

<sup>66</sup> See also Lacroix testimony, May 10, 2006, p. 38.

<sup>67</sup> See Ex. P-426, p. 77 at 21:06; Ex. P1351 / P-347 at 21:02.

<sup>68</sup> Dr. Alison Marr, April 26, 2005, p. 159-160, 162-163, 182.

efforts. There was deadly violence against Dudley George, who OPP sniper Ken Deane shot with his high-powered Heckler Koch MP5 automatic rifle.

Dudley was in the sandy parking lot that night, defending his people's land. He was armed with nothing but a stick.<sup>69</sup> He did not stand a chance against the sniper who shot him.

Harris wanted the fucking Indians out of the Park. A 9 mm bullet to the chest is one way to do that.

In a way, violence continued even after Dudley was shot, with a grossly prejudicial campaign of misinformation alleging the occupiers having guns and firing upon the police, designed to justify the police actions and stigmatize the occupiers.<sup>69.1</sup>

The occupiers did not use firearms when they were confronted by riot police and snipers on September 6, 1995. They did not have firearms in the Park at all during the course of the occupation. The lie that the OPP propagated after the confrontation – that police were fired upon and returned fire – must be laid to rest. The OPP opened fire on an unarmed group of native protestors. OPP officer Beauchesne testified that the sound from his gun was the first one he heard.<sup>70</sup>

The story about guns was concocted *ex post facto* in an ill-fated attempt to disguise the fact that an unarmed man was shot.

---

<sup>69</sup> Hebblethwaite testimony, May 11, 2006, p. 224. Hebblethwaite's evidence on this point is very clear: Dudley appeared to be holding a stick or a pole. He further stated that what he saw was an extension over Dudley's shoulder that was the configuration of a pole or a stick or an object of similar dimension. (at p. 246). He also stated that if it had registered as a firearm, he would have kept his focus on Dudley (at p. 249).

<sup>69.1</sup> OPP Press Release, Sept 7, 1995, Exhibit P-440

<sup>70</sup> Beauchesne testimony, May 25, 2006, p. 69.

## ***Spinning a fairy tale to politically justify mobilizing the troops***

The dented fender incident was trivial, but it was the opportunity Mark Wright and Stan Korosec had, consciously or subconsciously, been waiting for.

Wright and Korosec were looking for an emergency, which would give them the opportunity to take the marines down to war. They clearly knew this was what the Premier wanted and needed. However, there was nothing going on in the Park that could be considered an emergency. So Mark Wright took a trivial incident and, recklessly or intentionally, turned it into an emergency. He, with some help from his fellow officers, wildly distorted a trivial event out of any factual relation to what really happened, and then made that grossly falsified and inflated version of the incident the central justification for a massive use of force against the occupiers. After all, he needed to be able to give the court the next morning *some* justification for an injunction on an emergency *ex parte* basis. The relative calm and quiet that marked the occupation during the day on September 6 simply would not do for that purpose.

It is clear what actually happened. Gerald George, a Kettle and Stony Point band councillor who had been outspoken against the Stony Pointers, stopped by the Park and engaged in a brief argument with one of the Park occupiers. As Gerald George drove off, the occupier threw a rock that dented the fender of his car, causing maybe \$400 damage. How was it that such a minor altercation could result in such massive force being rapidly mobilized to confront the occupiers in the dark of night?

This trivial incident was immediately wildly distorted and exaggerated by the OPP, and then used by the police as the basis for calling out and then employing massive force against a small group of Indians who were not really bothering anyone. The incident was reported to Mark Wright, who then called over to the Command Post misrepresenting the incident as involving “ten natives with baseball bats near the road who have apparently

damaged a private vehicle.”<sup>71</sup> By the time the story reached the senior OPP officers at Ipperwash, the incident had morphed into one involving ten native males with baseball bats banging on a white woman’s car as she was innocently driving by the Park. The fairy tale version bore no resemblance to reality.

	WHAT REALLY HAPPENED	FAIRY TALE VERSION
Who was the victim	Gerald George, Kettle and Stony Point councillor, outspoken against Stony Pointers	White lady, local cottager
Who caused damage	Stewart George	8 or 10 natives with baseball bats
Nature of confrontation	Dispute between two native males	Gang of natives attacking a white woman
Nature of damage	Dented fender (\$400 damage)	Trashed her car
Cause of damage	One rock	Baseball bats
Reason for incident	Gerald stopped to talk to occupiers and had an argument	None – the lady was just driving by

The rock throwing set in course a chain of events:

- Mark Wright and Stan Korosec manipulated the situation and without authorization amassed “a fucking army,” namely, the Crown Management Unit;
- Dale Linton heard the fairy tale version of the story of a lady’s car getting trashed by a gang of natives and felt compelled to valiantly come to the aid of the damsel in distress, and called in TRU (initially for the purpose of making arrests); and
- John Carson arrived back on the scene after the train had already left the station (CMU having been suited up and initially deployed to the tactical operations centre near the Park), and was unwilling or unable to stop it. He too had heard the fairy tale version of the dented fender incident and knew the political realities of the situation. The runaway train was going to the destination the Premier wanted and he was not prepared to bring it to a stop.

<sup>71</sup> Exhibit P426, p. 73; Exhibit P1115.

To be fair, it wasn't just political pressure that caused this event to be so wildly distorted to become the central justification for the deployment of massive force. Sheer negligence by the OPP (in particular, the wackiness of police "intelligence") as well as an anti-Indian animus by some officers had a role to play as well. However, those factors are not particularly novel to the Ipperwash situation, and normally those factors would not, on their own, result in such a use of force.

What was novel to Ipperwash was the intense political pressure from the Premier that was brought to bear on the police. This gave those with anti-native impulses and hawkish views that aligned with the Premier's views license to act on their own aggressive, anti-native sentiments. It also resulted in the senior OPP officers being unwilling or unable to step back and objectively scrutinize the escalating false stories or contain the momentum toward the mobilization of massive force, because they knew that escalation of the situation into an emergency was exactly what the Premier wanted.

John Carson was already well aware that prudence and caution would not be rewarded in this situation by the Premier. The Premier had already been critical of the OPP for failing to prevent the occupation, and there was no incentive to attract further criticism and possible career consequences by failing to act. The caution and prudence that the OPP is supposed to employ in these situations and which was emphasized in Project Maple lost out to taking aggressive steps that would avoid political backlash.

There is no doubt that Dudley would never have been shot by an OPP sniper at Ipperwash Park on September 6, 1995 if the Premier had not exerted such political pressure and manufactured an emergency. There is no doubt that if the policy of the Premier was that First Nations rights should be respected as opposed to treating aboriginals the same as non-aboriginals, and if the policy of the Premier was to stress peaceful solutions rather than aggression and force, the OPP would have been much more restrained.

There were at least four ways in which political pressure steered Project Maple away from peace and toward death:

- The OPP officers involved (particularly Mark Wright) were put in a position where they were, consciously or subconsciously, looking for an emergency which they knew the Premier wanted;
- Senior OPP officers (John Carson and Dale Linton) were unwilling or unable to step back and objectively scrutinize the escalating false stories or contain the momentum toward the mobilization of massive force, because they knew that escalation of the situation into an emergency was exactly what the Premier wanted;
- The senior OPP officers were departed from a cautious and careful approach in the face of a minor incident because they knew that the Premier wanted action, and taking a cautious and careful approach would only win criticism and political backlash; and
- Some police officers (particularly Korosec and Wright) saw the Premier's position as a licence to act on their own aggressive and sometimes anti-native impulses.

Carson, Wright, and Korosec would, of course, insist that they have never been influenced by political pressure, but those denials are virtually meaningless. They would deny they were influenced by political pressure, whether or not they actually were. Probably anybody in their situation would do the same, either because: they were not conscious of being influenced; or, if they were alive to the fact that they were being influenced, knew it was wrong to succumb to political pressure but impossible for anyone to prove that occurred; or because they wanted to do what the Premier wanted anyway, and thus were not influenced in their views, but only given political authority to act upon those views.

The totality of the circumstances leads to no other conclusion for the drastic abandonment of the Project Maple objectives on September 6, 1995, just 48 hours after the occupation began. We know there was political pressure on the OPP. We know there was violence and death caused by the OPP. And we know that the OPP were influenced

in some way by the political pressure; otherwise the violence and death would never have occurred.

There is no other explanation that can hold up to scrutiny.

### ***Attempted justifications for the mobilization of force***

In addition to the fairy tale of a damsel's carriage being trashed by a gang of bat-wielding ogres, John Carson offered another seven justifications for the mobilization of massive force on the evening of September 6, 1995. All of those justifications suffer from several fatal flaws.

If the OPP did in fact base its justification for the deployment of the troops on any of these factors, it is simply another example of how political pressure and the emergency mindset it created pushed the OPP to jettison prudence, common sense, good police practices, and the fundamental objective of Project Maple in favour of looking for reasons to justify “kicking ass.”<sup>72</sup>

The justifications offered by John Carson included:

- A. There was a bonfire outside the Park;
- B. There were men with bats by the roadway;
- C. The women and kids were leaving and saying something was about to happen;
- D. There was vehicle movement within the Park and Army Camp;
- E. The blinds in the kiosk were pulled down;
- F. The OPP feared that the occupiers would expand their occupation to the cottages;  
and
- G. The OPP feared that local cottagers might attack.

---

<sup>72</sup> Quote is from Carson in Ex. P-444A. Tab 37, at p. 262.

All of these justifications suffer from one or more of the following fatal flaws:

- The event was falsely reported and did not actually happen (A);
- The event was reported as a wild distortion or exaggeration of reality (B and D);
- The event or issue was trivial but interpreted in a highly prejudicial, hawkish way (A, B, C, D, and E);
- The event only arose after the troops had already been deployed, and after Mark Wright was already saying “we’re going to war” and “we’re sending the marines down now,” and after Stan Korosec was saying “Lacroix is on his way up to do these guys.” (A, and to some degree, also C, D, and E);
- The event was not actually part of the justification for the deployment (A, C, D, E, F, and G); and
- The event should not reasonably have been part of the justification for the deployment (all of the above).

Another justification not offered by John Carson but sometimes suggested by others is that the mobilization was a response to the concern that the occupiers had guns.

In cross-examination at the Inquiry, John Carson explained the fundamental principle guiding his justification for deploying the troops. He stated that: “if the occupiers had stayed within the confines of the Provincial Park, there would have been no necessity to use a crown management team on September 6.”<sup>73</sup> This automatically excludes all of the attempted justifications for the deployment except for the bat-wielding car-trashing fairy tale, and the bogus report of a fire outside the Park that occurred well after the deployment.

The following summarizes why Carson’s purported justifications for the deployment of massive force, were not actually factors that were used or should reasonably have been used to justify the deployment.

---

<sup>73</sup> John Carson, June 7, 2005, p. 165.

<b>Alleged justification</b>	<b>What actually happened</b>	<b>OPP's attempted basis for justification</b>	<b>Was it an actual justification for the deployment?</b>	<b>Would the event reasonably justify deployment?</b>
Bonfire <u>outside</u> the Park	Bonfire <u>inside</u> the Park	Indicated the occupation was expanding and escalating	No – occurred after deployment	No. Even if fire was outside the Park, the issue was not as serious as the picnic table issue the previous night, which did not result in mobilization then; also, that land is treaty reserve land and the occupiers had a right (or colour of right) to be there
8 to 10 men with bats just at the edge of the road	One unarmed native talking to Wright by the road; about eight others by the Park fence, some holding bats	See above text re: the fairy tale	Yes, but only in conjunction with the fairy tale about men with bats trashing a lady's car.	No – see above text re: the fairy tale
Women and kids moving out and saying something is about to happen	Women and kids moving out, fearing OPP was about to do something	Escalation of occupation	No.	No. To rely on such vague and ambiguous "intelligence" to mobilize troops would be reckless at best
Vehicles "roaring around" in Park and army camp, moving toward roadway	Vehicles moving around within Park and army camp lands	Escalation of occupation	No – only an issue if they came out onto road	No. At best, this "intelligence" only indicated potential for a concern that never materialized
Blinds in the kiosk being pulled down	Blinds in the kiosk being pulled down	The occupiers are planning something; setting the OPP up	No. The kiosk could not be seen from the public roadways outside the Park	No. Unless the police were planning on entering the Park, there was no reason to be concerned
Fear of expansion of occupation	Nothing	Escalation of occupation	No.	No. OPP is not in the business of using CMU and TRU to do pre-emptive strikes.
Angry cottagers might attempt to attack occupiers	A meeting of angry cottagers occurred but the situation was defused by OPP before anything happened	Relates to fear of expansion of occupation, i.e., cottagers would be mad if the occupiers did try to take over the cottages next to the Park	No	No. You do not send a CMU to confront people because of a concern that somebody might be coming to attack them.
Occupiers have guns	The reports of gunfire overnight and so-called intelligence about guns were bogus.	Not used by Carson as justification for mobilization	No.	No. If it were true that the occupiers had guns, that would be a reason <i>not</i> to deploy CMU, as per Lacroix's evidence.

## **The bonfire that wasn't outside the Park**

At 9:26 p.m., on September 6, 1995, the OPP received false intelligence that there was a bonfire outside of the Park, which Mark Wright interpreted to mean that there was an escalation of movement of people within the Park to a position outside the Park.<sup>74</sup> There was no bonfire outside the Park.<sup>75</sup> In any event, this false information was received well after the OPP troops were already deployed (which occurred, at the latest, at 8:37 p.m.) and could not have been a factor in the decision to deploy CMU and TRU.

## **Men with bats**

Mark Wright reported that he observed a number of people with bats by the edge of the paved roadway just before 8:00 p.m. This was just another exaggeration on Mark Wright's part. In reality, there was only one person who approached him near the roadway when he stopped his car by the Park; the rest were back by the Park fence, and only some of them had anything in their hands.<sup>76</sup>

Carson conceded that as long as people were not doing anything illegal, they could go onto that sandy parking lot without being accosted by police.<sup>77</sup> There was no illegal activity going on in the parking lot when Mark Wright was present, and the only illegal activity that did occur in the parking lot that evening was Stewart George throwing a rock at Gerald George's car and causing a dent. However, arresting one person for throwing a rock is not generally what CMU is deployed for.

The "men with bats" issue only became relevant when Mark Wright added one plus one and got seven. It only became relevant when he merged the dented fender incident with his observation of people holding bats, and he advised the Command Post that people

---

<sup>74</sup> Mark Wright, March 6, 2006, p. 190-192.

<sup>75</sup> Exhibit P-1153 (Interview of Lacroix), p. 12; See also Neil Whelan, March 29, 2006, p. 215-216, 267-268.

<sup>76</sup> Mark Wright, Feb. 23, 2006, p. 21-28; Mar. 21, 2006, p. 374.

<sup>77</sup> John Carson, June 7, 2005, p. 225.

with bats and sticks were assaulting a car. As already discussed, the fairy tale that emerged was the trigger for the deployment in the context of the political pressure that had been brought to bear on the OPP at Ipperwash.

### **The women and kids said something was about to happen**

Ron French attended Ipperwash Park around 8:00 in the evening of September 6, 1995, on behalf of the Federal Minister of Indian Affairs. When he arrived in the area, he was quite concerned about the police presence there and was worried that people in the Park might get hurt. He was so concerned, in fact, that he suggested to the Stony Pointers he met with that they should get the teenagers and children out of the Park.<sup>78</sup>

Officer Mark Dew's report that native women and children were moving out as they were reporting that something was going to happen occurred at 8:26 p.m.<sup>79</sup> This was after CMU and TRU were already mobilized. It was also half an hour after Mark Wright's radio transmission saying: "Talk to your ERT guy ... I think we should be moving some people down that way."<sup>80</sup> Since the occupiers had police radio scanners, there was a good possibility that they heard that transmission that confirmed what Ron French was saying and began moving women and children out of the Park.<sup>81</sup> It is not surprising that the women and children would have reported to Mark Dew that something was about to happen, because something was happening right at the time – the massive mobilization of paramilitary police forces to confront the occupiers.

### **Vehicle movement within the Park and Army Camp**

OPP officers manning the checkpoints reported at various times throughout the day on vehicle movements between the Army Camp and the Park. Mark Wright was concerned

---

<sup>78</sup> Ron French, June 28, 2006, p. 53.

<sup>79</sup> Exhibit P426, p. 74.

<sup>80</sup> Exhibit P1115.

<sup>81</sup> Mark Wright, March 20, 2006, p. 161.

that the dump truck and school bus might head onto Army Camp Road, and as long as the vehicles stayed within the Park or the Army Camp, that was fine:

What happened in the Park was fine with me... What went on down there and the cars that were roaring around inside the Park, were neither here nor there, as fair as I was concerned. The fact that these vehicles ... were going to be coming through and onto the roadway, and that was the concern.<sup>82</sup>

[...]

Whether the bus was moving or not moving in amongst the Park really is neither here nor there as long as it's not moving towards the roadway.<sup>83</sup>

No vehicles ever did move onto the roadway. The concerns which the OPP had about that possibility were unrealised and unfounded. Because the vehicles stayed in the Park, the issue of vehicle movement was not a factor in the decision to send forces down to the Park.<sup>84</sup>

### **The blinds in the kiosk**

At 8:12, Korosec received a call from Chris Martin who was monitoring the videos from the gatehouse in the Park. He reported that there was a native male in the gatehouse, and that he had pulled the blinds down but would peek through there periodically. He has no indication that that person is armed. Korosec's immediate response was, "Okay we weren't going to go anywhere near that thing."<sup>85</sup> The gatehouse was well within the Park and was not a concern to Korosec.<sup>86</sup> Martin loosely speculated that the gatehouse would be a good place to be barricaded.<sup>87</sup>

---

<sup>82</sup> Mark Wright, March 20, 2006, p. 196.

<sup>83</sup> Mark Wright, March 20, 2006, p. 218.

<sup>84</sup> Mark Wright, March 20, 2006, p. 187.

<sup>85</sup> Exhibit P1319.

<sup>86</sup> Chris Martin, March 28, 2006, p. 81.

<sup>87</sup> Exhibit P1319; Chris Martin, March 28, 2006, p. 82-83.

This was fanciful speculation (as shown by the fact that about *13-14 minutes* passed from when the blinds were initially closed before this information was viewed as important enough to be passed to the Command Post<sup>88</sup>), but it was speculation that became hyped up to the point that the police sent in an observer team to check out the site and determine whether there was a sniper in the gatehouse (or whether the person in the gatehouse was just trying to block out the evening sunshine streaming in through the windows).<sup>89</sup>

There is no evidence that Carson was aware of the kiosk issue until after he authorized the deployment of CMU. When he did learn of the issue, his concern was whether there might be any danger to anyone outside the Park if there was a sniper in the kiosk. Mark Wright assured him, “I bet my life it’s okay there.”<sup>90</sup> There was no line of sight from the gatehouse from the road.

Even if the fantasy of a sniper in the kiosk were true, it would indicate that the occupiers are taking a defensive position because they fear something is going to happen. The police even talked about the occupiers “getting ready for us to do something.”<sup>91</sup> Even if the occupiers were indeed taking up defensive positions inside the Park, that could not have been justification for the OPP taking an offensive position against them.

## **The fear of the occupation expanding**

John Carson said one of the factors he considered was that “we had information that ... the cottages were next” or that the occupiers would try to “take back” the sandy parking lot (which was also part of the Treaty Reserve land – a fact to which the OPP were apparently oblivious).

---

<sup>88</sup> Chris Martin, March 28, 2006, p. 73, 76-78; Exhibit P1200A; See also the video at Ex. P-473.

<sup>89</sup> Exhibit P426, p. 75.

<sup>90</sup> Exhibit P426, p. 76.

<sup>91</sup> See *e.g.* Ex. P-444B, Tab 52, p. 332.

When questioned, however, Carson admitted that he had no specific information that there would be a move on the cottages that night and no intelligence information and no indication of any plan to put anything on the parking lot.<sup>92</sup>

This fear only makes sense when viewed in the context of the intense political pressure exerted on the OPP as a result of what the Premier wanted, all of which skewed police interpretations of things on the ground.

### **The fear of cottagers attacking**

Another reason John Carson gave for the deployment of CMU was that there was an angry group of cottagers who apparently intended to march in protest down the Park. This was a factor because of what non-native cottagers were threatening to do – it was not an action taken by natives.<sup>93</sup>

One does not send down a riot squad to confront a group of people as a result of a concern that there is a vigilante posse after them.

### **A sober second look at the purported justifications for deployment of massive force**

Superintendent Tony Parkin was asked at the inquiry in detail about five of the seven factors listed above which have variously been relied upon to justify the use of force. He admitted that all of those factors he was told about were incorrect, unverified or unknown as to why they happened.<sup>94</sup> He also indicated that if he had been informed of what had really happened when Mark Wright had gone around the bend instead of the fairy tale about woman's car and men with bats, he would have asked questions to slow things

---

<sup>92</sup> John Carson, June 7, 2005, p. 177, 220; June 27, 2005, p. 138.

<sup>93</sup> John Carson, June 7, 2005, p. 236.

<sup>94</sup> Tony Parkin, Feb. 8, 2006, p. 273-274, 302. Parkin appears not to have been told about the fear of the occupation expanding or the fear of the cottagers attacking during the evening of September 6<sup>th</sup>.

down.<sup>95</sup> He agreed that there seemed to be a problem in gathering and adequately assessing information, and he could not disagree with the proposition that the deficiencies in the intelligence gathering techniques used by the OPP at Ipperwash played a role in the decision to deploy the CMU.<sup>96</sup> Looking back, he no longer had a great comfort level about the information that was relied upon that night to deploy the troops:

Q: [JULIAN FALCONER] And looking back, with the benefit of this hindsight and the reports and the notes I took you through, you don't have much comfort level on the information that was relied upon to march that night do you?

A: [TONY PARKIN] Correct.

Q: And when you say "correct," you're answering a negative. The short answer to my question is you don't have a great comfort level, do?

A: Not – not like I did at the time.<sup>97</sup>

The question remains, how did it get to the point that such information came to be relied upon as a justification to deploy massive force?

### **The fairy tale was the only triggering reason for the OPP response**

On September 7, 2005, John Carson said: "A member of the public had driven by there and had been – their car had been literally assaulted. They went out and banged on the car with baseball bats and stuff. **And that's why we went to clear them away from the highway.**"<sup>98</sup> This is what he believed at the time to be true, and this was the truth at the time.<sup>99</sup>

---

<sup>95</sup> Tony Parkin, Feb. 8, 2006, p. 285-287.

<sup>96</sup> Tony Parkin, Feb. 8, 2006, p. 311.

<sup>97</sup> Tony Parkin, Feb. 8, 2006, p. 319.

<sup>98</sup> Exhibit P444B, Tab 67, p. 416 [emphasis added]. Carson repeats the same point at p. 420.

<sup>99</sup> John Carson, June 6, 2005, p. 64.

Carson did not mention the kiosk, the vehicle movement, the irate locals, the concern about guns, and any of these other factors as being the reason that the OPP sent the CMU and TRU to confront the occupiers that night. All of these were either not a reason for the deployment, or should not have been.

Certainly, under objective circumstances, none of these issues would have been used to justify the massive deployment of paramilitary forces, but after being poisoned by political pressure, there was nothing objective about the police response to the Ipperwash situation. The political pressure created an explosive situation and caused every little situation to be exaggerated and manipulated to justify treating the situation as an emergency, which in turn was used to attempt to justify the use of force. The political pressure compelled Carson to look for reasons to use force and prevented him from looking at the situation critically and rationally. The Premier's political pressure and manufacturing of an emergency rendered John Carson powerless to stop the police from violently confronting the Stony Pointers once they had been mobilized by Wright and Korosec.

## **CHAPTER 7: CONCLUSIONS AND FINDINGS OF FACT**

The Estate of Dudley George and George Family Members ask the Commissioner to include the following points in his findings of fact and conclusions from the evidence.

### ***Historical and land-related issues***

1. In 1764, the British and the Anishnaabeg nations of the Great Lakes region entered into a treaty at Niagara. In that treaty, the Anishnaabeg agreed to enter into a peaceful alliance with the British, which was vital to the British being able to protect their interests in the colonies. In return, the British promised that they would never take the Anishnaabeg peoples' lands and would always provide them with the necessities of life when called upon, and that the Anishnaabeg peoples would never sink into poverty.
2. The British entered into a Treaty with Anishnaabeg peoples on Lake Huron in 1827. In that treaty, the Anishnaabeg agreed to share 99.2% of their lands with the white settlers, and reserved 0.8% of their lands for their own exclusive use and possession in perpetuity. The British agreed, as a condition of the Treaty, that the reserve lands were reserved to the Anishnaabeg peoples in perpetuity.
3. The lands reserved in the Treaty of 1827 included the lands that became known as the Stony Point reserve or I.R. #43. Those lands included lands that were subsequently taken from the First Nation and became used as an army camp, Ipperwash Provincial Park, Matheson Dr., and a sandy beach access road adjacent to the Park.

4. In 1928, there was a purported surrender of 377 acres of the Stony Point Reserve. The surrender was initiated by a private individual (William J. Scott), and not by the First Nation. The surrender was not in the best interests of the First Nation, but was for the financial benefit of W.J. Scott. The surrender was unfair and morally repugnant. The Crown assisted the unfair taking of the Stony Point treaty land because it was consistent with the government's anti-Indian assimilation policy.
5. Although the Inquiry declined to look into the issue in detail, there is some evidence that there was corruption and conflicts of interest by the powerful Indian Agent, which may have had some role in procuring the surrender of these lands contrary to the best interests of the First Nation.
6. In 1942, the rest of the Stony Point Reserve was appropriated from the First Nation against the wishes and the best interests of the First Nation. The taking of unceded reserve land by the Crown was neither valid nor fair. The ongoing failure of the Crown to return the treaty reserve land to the First Nation after the war was reprehensible and indefensible.
7. Dudley would not have died if the Ipperwash Park lands had never been taken from the First Nation.
8. The takings of the Stony Point reserve land in 1928 and 1942 displaced a whole community and caused great disruption, severe social and economic problems, and friction between the people from the Stony Point reserve and Kettle Point reserve. That friction continues to exist today and will never be resolved until the Stony Point lands are returned.
9. There is an old aboriginal burial ground in the lands that were used as Ipperwash Provincial Park, or at least there was at the time that the Park was created in 1937.

10. Agents of the Crown were aware of evidence about the existence of a burial ground in the Park in 1937, 1942, 1950, and 1975, but on none of those occasions were any steps taken to preserve and protect the burial ground, and on none of those occasions since 1937 were the affected First Nations notified of the burial findings in the Park or evidence thereof.
11. Because of the failure to preserve and protect the burial ground after the Crown took possession of the Park lands, the present location of the burial grounds cannot be ascertained without invasive steps which will cause further indignities to the bodies of the dead, and therefore the whole land must be considered sacred.
12. Dudley George and the other people who occupied Ipperwash Provincial Park on September 4, 1995 did so because they genuinely and fervently believed that it was their land, which was stolen from them, and that there were sacred burial sites in the Park.
13. For healing to occur, the lands must be returned. Healing will never occur if any of the Stony Point lands remain in the hands of the government. If Ontario is committed to healing, it will return the Ipperwash Park Lands to First Nations ownership – not because of any legal obligation it may have, but because it is the fair, just, and decent thing to do.

### ***Political involvement***

14. The Premier and the Premier's office saw the occupation of Ipperwash Park as a test for the government and a chance to demonstrate to the public how the new government would handle such issues in the future, with a get-tough law-and-order agenda.

15. The Premier and the Premier's office favoured a policy of treating aboriginals and non-aboriginals the same both in the Ipperwash situation and in general. The policy of treating aboriginals the same as non-aboriginals is inherently unjust and racist, particularly in the context of a native occupation of land. It is never appropriate to treat native occupations or blockades as simple trespass or criminal issues.
16. The Premier and the Premier's office wanted the occupiers *out of the Park* on an urgent basis – specifically, within 24 hours, or at most within two days, after the September 6 meetings.
17. The Premier and Deb Hutton knew that the only way to achieve the objective of removal within 24 or 48 hours was to use physical force (unless the occupiers voluntarily left the Park, which nobody reasonably expected would occur).
18. During the course of September 4 to 6, 1995, there were no circumstances on the ground at Ipperwash Park which warranted that the situation be dealt with on an urgent or emergency basis.
19. At the Interministerial Committee meetings on September 5 and 6, Deb Hutton was speaking on behalf of the Premier with the Premier's authority. Ms. Hutton made it clear to the civil servants who attended the IMC meetings that the Premier was hawkish and that he wanted the occupiers out of the Park urgently. Deb Hutton's comments dramatically changed the tone of the meeting and the focus of the discussions at the meeting. Her comments limited the options considered, and steered the civil servants toward the goal of ending the occupation as soon as possible.
20. The Premier and Deb Hutton fundamentally disagreed with the advice they were getting from civil servants on Sept 6, that the best case scenario was a court date for an injunction on Friday (with enforcement to follow an indefinite time

thereafter). The Premier and Deb Hutton wanted the Indians *out* of the Park by Thursday or Friday.

21. The Premier and Deb Hutton fundamentally disagreed with the approach advocated by Ron Fox, which was to take time to find out more about the issues and work out solutions in a peaceful and sensitive way. Deb Hutton saw Ron Fox as an obstacle to her getting her way, especially because he spoke with some authority as a senior police officer.
22. Deb Hutton knew that Ron Fox was a police officer and had a liaison function with the OPP on the ground at Ipperwash based on having attended the Interministerial Meetings of September 5 and 6.
23. After the September 6 IMC meeting in which Deb Hutton did not get her way despite her assertiveness at the meeting, she and the Premier called a meeting of relevant cabinet ministers, their executive assistants, and deputy ministers for the afternoon of September 6 in the Premier's Dining Room. This meeting was convened because the Premier was adamant that steps be taken immediately to end the occupation, and he did not believe enough was being done to achieve that objective.
24. Deb Hutton required Ron Fox's attendance at the Premier's Dining Room meeting, so that he would hear from the Premier himself how things would operate, and so that the Premier's instructions could be communicated to the OPP.
25. The Premier knew that Ron Fox was a police officer and was liaising with the police on the ground, and he wanted Ron Fox to hear how things would work. The Premier knew and expected that his intentions, as communicated at that meeting and heard by Ron Fox, would be passed onto the operational police officers at Ipperwash.

26. The decision to get an *ex parte* injunction (as opposed to a regular injunction on short notice, which the civil servants had recommended as the most appropriate means of achieving the Premier's objective of quick removal of the occupiers) was made by the Premier. The decision was contrary to the advice of civil servants, and was not based on any recommendation made by anyone at that meeting or before the meeting. The Premier's decision did not reflect a consensus of those present at the meeting, but was dictated instead solely by the Premier. The Premier's decision was a reflection of his hawkish desire to get the "fucking Indians out of the Park" within 24 or 48 hours.
27. The Premier's desire to move quickly to get the occupiers out of the Park (including the decision to get an injunction on an *ex parte* basis) dramatically escalated the urgency of the situation and created an emergency mindset inside and outside the government. This compressed the time for conducting necessary research and looking for options to end the dispute peacefully. As a result, necessary research (e.g. regarding the burial ground and the surrender of land) was not performed, and options such as appointing a fact finder or negotiator were either not presented or rejected on the basis that they would take too much time and would be contrary to the government's desire to not be seen to be working with Indians.
28. The Premier was hawkish about the Ipperwash occupation. His priority was never that there be a peaceful solution to the occupation (which might take some time). His priority was that the occupation be terminated quickly, no matter what.
29. Given the passage of time, witnesses have inconsistent recollections of what transpired at the meeting in the Premier's Dining Room on September 6, 1995. No notes were taken at that meeting. The most contemporaneous and only detailed recording of what transpired at that meeting is the tape recording of Ron Fox's call to John Carson and Chris Coles, and that must be taken to be the most

reliable, accurate, and detailed version of what transpired during the time that Ron Fox was present at that meeting.

30. The full truth of what Mike Harris's involvement was in Ipperwash will never be known, because he and Deb Hutton (and some other witnesses) were obviously not completely truthful and forthcoming about the roles that they played.
31. Mike Harris knows that his actions were inappropriate, as proven by his consciousness of guilt, which is demonstrated by his deceiving of the Legislature for many years and his failure to call a public inquiry or any other independent investigation into the allegations of political interference.

### ***Events on the ground***

32. The Premier's intentions and desires were communicated to the OPP on the ground at Ipperwash, including to John Carson, Mark Wright, and Stan Korosec. These officers and others were unequivocally aware of the political pressure emanating from Queen's Park.
33. In particular, the OPP were aware that:
  - The Premier was following the situation;
  - The Premier wanted swift action to remove the occupiers from the Park; and
  - The Harris government's policy was to treat aboriginals and non-aboriginals the same, and that the Park occupiers should be treated like ordinary criminals or trespassers without treaty or aboriginal rights.
34. Mark Wright and Stan Korosec drew encouragement and inspiration from the Premier's views. They were emboldened by the political messages they were receiving and the law-and-order political mindset of the government.

35. Like Harris, Wright and Korosec wanted to teach the occupiers a lesson. When Wright and Korosec heard Harris's wishes, it was like taking the leash off a pair of dangerous pit bulls.
36. Mark Wright and Stan Korosec became aware on the afternoon of September 6 that the province was going to be seeking an emergency injunction the next day. However, they knew that there were not sufficient circumstances to call the situation an emergency. And so, having been unleashed by the political messages they were receiving, they set about to create a confrontation which could be labeled an emergency.
37. As of the afternoon of September 6, everything was calm and there was nothing happening at the Park that would have warranted any aggressive action by the police.
38. After meeting a number of angry local white cottagers who shared the same views as Mike Harris and wanted the occupation terminated immediately (views which Mark Wright was completely sympathetic to), Mark Wright drove to the Park looking for an excuse to send in the police to confront the occupiers that evening. He observed a small number of occupiers along the Park fence line, some of whom were holding sticks. This in itself was not enough to warrant any further action by the police. However, a few minutes later, Mark Wright learned that one of the occupiers had thrown a stone at a car, causing a minor dent.
39. That incident involved Stewart George throwing a rock at a car being driven by Gerald George after they had exchanged words, which caused a dent in the car. Gerald George was a band councilor who had been outspoken against the Stony Point occupiers.
40. This incident was wildly distorted as it was communicated up the chain, so that the Incident Commander came to understand the incident to involve a group of

- natives beating on a white lady's car with bats and sticks as she was driving by the Park.
41. Wright exaggerated the nature of the stone-throwing incident and manipulated the information to achieve his desired objectives of manufacturing a confrontation with the occupiers, teaching them a lesson, and creating an emergency situation. The stone-throwing incident was merely the opportunity Wright and Korosec were hoping for in order to put their desires into action.
  42. Wright and Korosec mobilized CMU shortly after 8:00 p.m. without authorization from the Incident Commander. The Incident Commander's authorization only came after CMU was already mobilized.
  43. The car-denting incident (or at least the distorted version of that incident), and the fear that that incident might indicate that the occupiers intended to expand the occupation beyond the Park lands, was the sole reason why the Incident Commander ultimately authorized the deployment of CMU and TRU on the evening of September 6, 1995.
  44. None of the other factors cited by John Carson for the mobilization of the troops justified that use of force that night. Those factors included: the bonfire in the Park; vehicle movement in the Park and Army Camp; women and kids leaving and saying something is about to happen; blinds being pulled down in the kiosk; people holding bats in the sandy parking lot; fears that the cottagers might attack the occupiers; or that the occupiers might expand the occupation to the neighbouring cottages.
  45. During the confrontation on the sandy parking lot, the police engaged Cecil Bernard George in combat and severely beat and injured him. The beating, and the desire to rescue him from further injury, is what motivated Nicholas Cottrelle

- and Warren George to drive the bus and the car, respectively out of the Park. A police officer opened fire on the bus, and other officers followed.
46. Ken Deane shot Dudley George in the chest. Dudley George was unarmed at the time, and the only thing he was holding was a stick. Ken Deane knew that Dudley George was unarmed when he shot him.
  47. None of the occupiers had firearms with them on the night of September 6, 1995, or during the entire course of the occupation from September 4 to 6.
  48. The CMU would not have marched down the road toward the occupiers if the OPP reasonably believed that the occupiers were armed.
  49. There is no evidence that any occupiers had any firearms in the Park during the course of the occupation. There is one report of police hearing what they believe was automatic gunfire within the Army Camp lands on the night of September 5, 1995. However, that does not necessarily indicate that automatic weapons were discharged or were in the possession of the occupiers, as it may well have been something else that sounded like automatic gunfire (i.e. firecrackers).

### ***Factors causing Dudley's death***

50. The following were the factors which combined to cause Dudley's death:
  - The taking of the Stony Point reserve lands in 1937 and 1942;
  - The government's failure to preserve and protect the burial ground in Ipperwash Provincial Park;
  - Decades of frustration caused by the Canadian government's failure to return the Army Camp lands;
  - Decades of frustration caused by the desecration of the burial ground in the Park;

- A deeply held understanding by the Stony Point people that the Ipperwash Park lands were their treaty reserve lands which had been wrongfully taken from them;
- The systematic failure of Canadian courts to deal with First Nations land issues fairly;
- The Premier's hawkish attitude on Ipperwash and his insistence that the occupation be terminated within 24 or 48 hours, which created an emergency mindset and compressed the time available to research the issues or to attempt a peaceful resolution;
- The Harris government's policy of treating aboriginals and non-aboriginals the same, including its refusal to recognize the application of aboriginal and treaty rights;
- The lack of cultural or historical awareness by the police or by the Premier, and in some cases, racism;
- Political messages filtering down from the Premier to the operational police officers, including:
  - That the Premier wanted a swift end to the occupation; and
  - That the Harris government's policy was to treat aboriginals and non-aboriginals the same in this situation;
- Pressure on the police from local citizens and politicians, who, like the Premier, wanted swift affirmative action to terminate the occupation;
- Aggressive police officers (i.e. Wright and Korosec) who seized upon the opportunity presented by the political situation to create a confrontation;
- A minor altercation between Stewart George and Gerald George which was blown out of proportion and used as justification to send in CMU and TRU;
- Bumbling police officers who made error upon error in collecting and interpreting so-called intelligence and in making reckless decisions about how to deal with the issue;
- The police beating of Cecil Bernard George, which provoked the occupiers to drive out of the Park to rescue him, which was followed by police opening fire on the vehicles; and

- Ken Deane set the sights of his high-powered rifle on Dudley George and pulled the trigger.

## **CHAPTER 8: RECOMMENDATIONS**

The Estate of Dudley George and George Family Members ask the Commissioner to make the following recommendations as part of the Inquiry's mandate to prevent violence in similar circumstances.

### ***Restoration of the Stony Point Reserve***

- 1. The Province of Ontario should waive and renounce its ownership of, or any claim to, the Ipperwash Provincial Park lands.***
- 2. Canada should immediately waive and renounce any claim it asserts to use or occupy the Camp Ipperwash lands, and should clean up, or pay the cost of fully cleaning up the lands of all contamination caused by its use of the lands since 1942.***
- 3. The Municipality of Lambton Shores should waive and renounce its ownership of, or any claim to, Matheson Dr. and the sandy parking lot adjacent to Ipperwash Provincial Park.***
- 4. Canada, Ontario, and the Municipality should agree not to assert any rights to land with respect to land that was the subject of the purported surrender in 1928.***
- 5. The Ipperwash Provincial Park lands, Camp Ipperwash lands, and municipal lands should form a reconstituted Stony Point Reserve.***

The taking of the Stony Point Reserve lands was wrong – both in 1928 and in 1942. Even if the takings technically met the legal requirements of Canada in place at the time, that does not make them any more fair or morally defensible. Residential schools which destroyed aboriginal culture and aboriginal families were also legal at one time, but that does not mean that it is now inappropriate to compensate their victims. It is impossible to replace what residential schools took away. However, in the case of unjust and unfair land takings, it is possible to return the land, and that must be done.

Compensation may also be warranted for the loss of Treaty Reserve lands, but that alone will never be adequate. The people need the land itself. In the words of Tina George: “you can’t grow potatoes and corn on money. The land is priceless.”<sup>1</sup>

The Anishnaabeg people should be able to prosper and thrive socially, economically, and culturally as an Anishnaabeg people on the land that they specifically reserved for themselves in perpetuity. In order to do that, and for the Anishnaabeg to prosper and thrive, they need an adequate land and resource base to make that possible. The economic development and survival of the Anishnaabeg people requires getting the Stony Point reserve back. They need the land for future generations.<sup>2</sup>

Many people in the community know in their hearts that the 1928 surrender was not fair or valid – even some three or four generations after the surrender vote. They do not accept that the surrender was morally and politically legitimate or correct. They believe that it is one of the many wrongs done against their community. Their land is their life – for themselves and for their future generations.<sup>3</sup> This is a truth that will pass down from generation to generation until justice is done and the land is returned to its rightful owners. If the treaty lands are not returned, it will always be an outstanding issue. Any outcome other than the return of the Treaty lands would neither be fair nor effective.<sup>4</sup>

---

<sup>1</sup> Tina George, Jan 20, 2005, p. 39.

<sup>2</sup> Bonnie Bressette, Sept 22, 2004, p. 90-92.

<sup>3</sup> Bonnie Bressette, Sept 22, 2004, p. 92-93.

<sup>4</sup> Gordon Peters, March 31, 2005, p. 23.

Returning the land is essential to healing the community. In the words of Sam George:

If you don't go back and find the source that is making a person hurt, then you can never heal it. Our people have been hurting since the lands had been taken. I think ... the only way healing can possibly start amongst our people is to have the lands returned to them. And that would be the whole section. All the lands have to come back and I think at that time there may be a healing process that starts amongst the people. ... As long as that land is in other peoples' names, that healing won't take place and you can't heal that conflict. So it has to come back into the First Nations people's hands.<sup>5</sup>

It is also appropriate to return the Park lands in particular to the people because they contain sacred burial grounds. Unfortunately, the Province has consistently failed to mark and preserve the burial grounds in the Park; therefore it cannot be known with certainty where those sites are, and the whole land thus must be considered sacred. It would be morally repugnant for Ontario to use those lands as a provincial park again in the future because of the burial grounds and because of what it represents as a place where deadly political violence was exerted against First Nations protestors. The only reasonable and honourable way forward is for Ontario to return the lands.

For healing to occur, the lands must be returned. Healing will never occur if any of the Stony Point lands remain in the hands of the government. If Ontario is committed to healing, it will return the Ipperwash Park Lands to native ownership – not because of any legal obligation it may have, but because it is the fair, just, and honourable thing to do.

---

<sup>5</sup> Maynard George, April 18, 2005, p. 85-86.

## **Research and Public Education**

6. *As part of its public education mandate, the Inquiry (or alternately, the Province of Ontario or the Government of Canada) should commission a study into the quantum of economic benefits that have accrued to the Crown and the non-native population as a result of land transactions between the Crown and First Nations. This should start with a study of the economic rents in relation to land dealings between the Crown and the Chippewas at Lake Huron*

Among other things, this is important to counter the anti-Native sentiments that are held by many people, and even by governments sometimes. Many non-natives do not understand or appreciate the economic and other benefits that they have received as a result of treaties between their nation and First Nations, and what First Nations have lost – either because they agreed to give it up in treaties or because of breaches of those treaties. A deeper public understanding of these issues will promote more harmonious relationships between natives and non-natives, and reduce the resistance that some may have to righting the wrongs done to native people in the past – even where that involves returning treaty lands.

In the course of the last two centuries or so, land transactions occurred involving over 2,000,000 (two million) acres of Chippewa traditional lands in the context of ongoing relations between the Chippewa people of southwestern Ontario and the Crown. In the course of these relations and transactions, over 99% of these lands were purportedly conveyed by the Chippewa people to the Crown. In return, the Chippewa people were promised secure ownership, occupation and use of four reserves amounting to less than 1% of their traditional lands, in perpetuity.

Given the enormous value of the land and resources purportedly conveyed by the Chippewa to the Crown, these conveyances are hard to comprehend. Is it conceivable that the Chippewa freely conveyed their vast hunting grounds – and thus their means of economic survival – without seeking and receiving concrete assurances of future survival,

a secure place to live and be, however small, and a future means of economic subsistence, assurances upon which they felt they could rely as a people?

The historic record contains useful information in this regard. The evidence called by the Commission at the Inquiry described how during the period in question, relationships between First Nations and the British Crown involving Wampum Belts, a Covenant Chain and treaties were solemnly entered into. It is recorded (for example in the Wampum Belts that constituted for the Indians the record of some of the agreements) that the Indians were assured, and then re-assured, of a perpetual and beneficial relationship with the British Crown in consideration of their cession of much of the Chippewas' traditional lands. Among these promises were included assurances of assistance, including that the Indians would never sink into poverty.

In the contemporary era surrounding the shooting of Dudley George and the conflict concerning the Stony Point reserve and Ipperwash Provincial Park, local non-native economic interests have asserted concern about, and even strenuous opposition to, the possibility of the "loss" of the Provincial Park as a key economic asset in and to the Township. These concerns have been expressed by non-native economic interests including community associations, chambers of commerce, and local councils and tourist boards. The concerns involve, in main part, a sense that Ipperwash Park and / or Camp Ipperwash now rightfully "belong" to the broader Canadian polity, and that if they are left in the hands of, or restored to, the Indians in some way (or not "restored" to Canada / Ontario) there are significant and quantifiable losses that are being and will continue to be inflicted on local non-native and broader economies. In short, there is a perception that it would be an unfair economic loss to non-native interests to recognize the return of Ipperwash lands to native peoples.

For their part, involved First Nations individuals and entities have primarily articulated their concerns and aspirations relating to the Park and Camp Ipperwash in terms of ownership of and attachment to reserve lands originally guaranteed to them by Treaty, usually applying conceptions of land claims, restitution or compensation. However, most

or all of the First Nations interests involved also consistently articulate economic development goals and imperatives. In short, there is a native perception that natives have been unfairly left behind in the area of economic development.

In the context of the overall circumstances of Dudley George's killing by an agent of the Province of Ontario and the indication in the Commission's terms of reference of the need to search for effective options for preventing future violence in issues concerning aboriginal lands, it is critically important that all parties involved are fully aware of the overall nature of the long-standing relationship between the Chippewa people and the Crown, a relationship exemplified in the Wampum Belts with their promises in perpetuity. However, this relationship is one that now appears to have left the Indians landless, dispossessed, and impoverished.

It is absolutely apparent that there have long been (and likely still are) extremely deep frustrations on the "Indian side of the river" with respect to the gross disparities and manifestly inequitable outcomes of the Chippewa-Crown relationship over the last 200 years or so. It is also clear that these frustrations are related to questions not only of destruction of burial grounds, police violence and state accountability, but also to overarching aspects of the economic, geo-political and other relationships between the Crown and the Indians concerned. These issues are important to the mandate of the Commission to seek the avoidance of violence in the future.

The proposed study would build on a foundation of the testimony of Prof. Johnston, and some of the aboriginal parties to this Inquiry, with respect to the nature and content of the overall legal, economic, constitutional and political relationship between the Chippewas and the Crown in south-western Ontario, the very relationship that culminated in the violence leading to the death of Dudley George. The essence of the proposed study is an economic analysis of the total economic rents that have accrued to the Crown (both in right of Canada and in right of Ontario) since and as a result of the land transactions involving 2,000,000 acres (almost the entirety) of Chippewa traditional lands.

The proposed study will aim to achieve a more complete overall understanding (using conventional, orthodox economic models) of the relative benefits that have accrued to Canada / Ontario on the one hand and to the Chippewa people on the other hand, as a result of the treaties, the Wampum Belt promises and the Covenant Chain dealings between them in south-western Ontario. In the case of the reserves concerned, the study may provide (should it be felt to be possible, appropriate and useful) a number of alternative scenarios of benefit, including actual scenarios and optimal economic development scenarios under a range of “what if” possibilities with respect to (at least) the Ipperwash reserve at Stony Point, distinguishing between the Camp Ipperwash and the Ipperwash Park economic rents. The optimal scenarios will be informed by reference to the formal expressions of the relationship made by the parties to it, in the Wampum Belts, Covenant Chain and the treaties. The study should further provide a full understanding of the economic rents that have accrued to Canada and Ontario respectively as a result of the takings of Camp Ipperwash and Ipperwash Park reserve lands in 1942 and 1928 respectively.

The public will gain invaluable information from this study concerning the foundations for, and the depth and legitimacy of, the grievances felt and the claims expressed by Dudley George and his fellow demonstrators on the one hand, and the frustrations and claims being expressed by non-native entities and interests on the other hand. All of this information will be based on the particular historical record of the land transactions relationship between the Chippewa of southwestern Ontario and the Crown.

This economic information is surely now known to underlie and underpin, at least in part, land conflicts and other social conflicts between aboriginal peoples and the Crowns in right of Canada and Ontario in general, and in the Ipperwash context in particular. We see some of the same kinds of conflicts occurring today in Caledonia. Accordingly, the study methodology might be replicated for other parts of Canada as well.

The study should be undertaken by one or more economists with experience in the area of economic rents and appropriate economic modeling. If necessary and as required, they

will be assisted by other qualified persons with experience in the area of aboriginal economic participation and articulations of aboriginal rights and claims.

### ***Responding to Native occupations and blockades***

- 7. Governments should understand that a blanket policy of treating aboriginals and non-aboriginals the same is not appropriate government policy, and it is racist and unconstitutional.***

Not only is a policy of treating aboriginals and non-aboriginals the same wrong, but we have seen how such a policy can cause death.

- 8. When First Nations occupations or blockades occur, governments should always emphasize an approach of peace, prudence and caution.***

Ideally, governments will always be proactive in dealing with First Nations grievances in a timely and fair way, so that First Nations people will not feel compelled to resort to occupations or blockades. Until that happens, the reality is that occupations and blockades will continue to occur from time to time.

When First Nations people decide to engage in occupations or blockades, they do not do so frivolously but because of deep-seeded feelings about their lands and/or their rights as aboriginal people, and because they perceive (often, quite legitimately) that there are no other means to bring attention to their grievances. Occupations and blockades are a symptom of the failure of Canadian legal and political systems to deal with aboriginal issues in a fair and respectful way. A First Nations occupation or blockade is always a “native issue” and is never just a simple trespass.

As stated by Ron Fox:

There are some very special areas that need to be addressed when dealing with First Nations people, particularly when it is of times their reasonable

belief that they have certain rights and entitlements either enshrined in treaty, or at least articulated orally by their forefathers.... When we approach any of these situations, we can't view it as overly simplistic. We have to identify that there are some unique complexities to it, try to break it down into its simplest integers, and then move forward. ...<sup>6</sup>

One of the first steps governments must take in any occupation or blockade is to develop an understanding of the underlying issues. The only prudent long-term way to end an occupation or blockade is for governments to address the underlying issues, or at least to engage in a process with the aboriginal group towards addressing the underlying issues.

The government failed to do this in Ipperwash. It was aware of the claims that the land belonged to the Stony Pointers, but did nothing to understand the basis for those claims and respond to them on their merits. There was no advice or information given regarding the legality or fairness of the underlying surrender or whether it was fair and equitable.<sup>7</sup> Similarly, there was no research into the basis for the claims about the burial ground. If there was, and if the 1937 correspondence or other evidence about the burial ground in the Park had come forward prior to September 6, 1995, it might have, or at least should have, changed the course of events.

***9. The use of force against First Nations occupations and blockades is never appropriate with respect to the underlying historical issues, and force should never be used to just “deal” with the dispute.***

The reason for this recommendation is best explained in the words of Ovide Mercredi:

I never thought that I would see the use of force as a way of exacting political will of Canada, as they did in Oka. The incident in Oka left a permanent imprint in the psychology of our people that the State,

---

<sup>6</sup> Ron Fox, July 12, 2005, p. 195-196.

<sup>7</sup> Jeff Bangs, November 3, 2005, p. 256, 273; Tim McCabe, February 13, 2006, p. 161; Peter Sturdy, October 18 2005, p. 229-230; Leslie Kobayashi, October 26, 2005, p. 37-38.

namely Canada, will be quite prepared to use force to exact compliance in terms of their positions on matters that we don't agree on, right?

So that is not a very positive message to convey to any Aboriginal children in the country, much less, the Elders or to the leaders. But, nonetheless, that's the message that's there.

So my concern when I saw what happened in Gustafson with the presence of the RCMP there, was unless steps were taken to say to Canada, This is wrong, you can't deal with us in this manner, that it might become a precedent, that other governments might do that.

And so when the Ontario government did the same thing, then my paranoia, like, we all get our moments, made me wonder if this is in fact the strategy on the part of governments as a way of giving a signal to the Indian people that, "You better behave yourself," or, "You better conduct yourselves in a certain way."

I mean, you can't help but come to that wondering because that's not part of the ideal that you have to begin with. And you know that these issues are real, that they're not made up by our people, they're not false, and we don't do it to be controversial. And when we assert our statements with respect to our positions, we're not trying to be militant, we're trying to be assertive about our position.

So the use of force is totally inappropriate in dealing with political matters between us and Canada.<sup>8</sup>

This recommendation refers to the use of force to deal with the issue in dispute, and would, of course, not preclude police from acting in the normal course to deal with criminal activity that may sometimes occur while these disputes are ongoing.

- 10. *When First Nations occupations or blockades occur, there should be an onus on governments to ensure that the underlying issues are thoroughly researched. The results of such research should also be shared with the First Nations***

---

<sup>8</sup> Ovide Mercredi, April 1, 2005, p. 76-77.

*group. Preferably, such research would be undertaken by an independent researcher outside government, who is accountable to (and preferably jointly appointed by) both the government and the First Nations group, and who has full access to government and other archives and records and a mandate to learn the oral history connected with the issue in dispute.*

In Ipperwash, the provincial and federal governments were in possession of documentation that supported the occupiers' claim of a burial ground in the Park. The occupiers, and the First Nation of which they were members, never apparently had copies of those documents. It is often the case that the government will have relevant documents that the First Nation does not have.

Further, because of the compressed time frame that resulted from the government's decision to proceed with an injunction on an *ex parte* basis in Ipperwash, there was not enough time (even if there was a willingness) to conduct such research. Important documents came out after the fact – documents that were stored in government archives all along and could have been found if somebody had looked. Many OPP and government witnesses told the Inquiry that it would have been useful or important to have this information before the tragic events of September 6, 1995, and that such information would have or may have factored into their decision making.

## ***Legislative amendments***

### ***11. Amend the Cemeteries Act to better accommodate the concerns of First Nations people about the burial places of their ancestors***

In particular, there is a need to recognize that archival evidence of burial grounds is to be dealt with in the same way as physical evidence.

**12. *Amend the Public Inquiries Act to provide that commissions of inquiry may admit evidence that would otherwise be inadmissible due to parliamentary privilege by adding section 11.1 after section 11 to read as follows:***

**11. Nothing is admissible in evidence at an inquiry that would be inadmissible in a court by reason of any privilege under the law of evidence.**

**11.1. Notwithstanding s. 11, a commission may admit at an inquiry evidence that would be inadmissible in a court by reason of parliamentary privilege under the law of evidence.**

Often, public inquiries are intended to review issues regarding the actions of a government (e.g. Ipperwash, APEC, Federal Sponsorship). As a result, statements made by politicians in the Legislature may often be important, especially when inquiries are focused on politicians and they have been questioned on the issue.

Parliamentary privilege would continue to apply with respect to criminal and civil liability, but public inquiries are different than civil or criminal trials. Public inquiries cannot determine questions of civil or criminal liability. Rather, they are primarily truth-finding exercises. If public inquiries are not able to look at statements made in the Legislature, the very purpose which public inquiries are intended to serve is impaired.

Fortunately in this inquiry, parliamentary privilege was waived. However, the choice as to whether or not to waive parliamentary privilege should not be left to a person being investigated. This Inquiry has demonstrated the benefit of being able to rely upon statements made in the Legislature. Among other things, it has revealed that statements made by Charles Harnick and Mike Harris and others in the Legislature starkly contrast with evidence that has been given in this Inquiry and that the public had been deceived about Harris's role in Ipperwash.

The proposed amendment to the *Public Inquiries Act* would make politicians more accountable to the public and in the Legislature, as politicians would, hopefully, be less likely to mislead the public if they know that the truth might come out in a public inquiry after the fact.

**13. *The Province of Ontario should adopt legislation requiring all Members of Provincial Parliament to take an oath to tell the truth in the Legislature. Other jurisdictions in Canada should do likewise.***

Currently there is no such oath, and there are no sanctions for lying in the Legislature. Charles Harnick was under no such oath when he lied to the Legislature to cover up Mike Harris's wrongdoing. If he were, perhaps the public would have known the truth about Mike Harris's involvement in Ipperwash and his anti-native stance years ago.

Unfortunately, implementation of such an oath would not be a failsafe (as demonstrated by the fact that Mike Harris and some other political witnesses lied under oath at the Inquiry), but it would be an improvement over the current situation. When confronted with the fact that he had lied to the Legislature, Charles Harnick stated that he was not under any oath to tell the truth in the House.<sup>9</sup> He was under oath in the Inquiry, and he told the truth about what the Premier said at the Dining Room meeting as a result. It is reassuring to know that at least some politicians honour their obligation to tell the truth when they are under oath.

### ***Land claims process***

**14. *An effective process for resolving land claims and disputes over aboriginal rights must begin with recognition of the historic relationships between First Nations and the Crown, including the treaty relationships whether written, oral, or documented by wampum belts or any other means.***

---

<sup>9</sup> Charles Harnick, November 29, 2005, p. 129, 200.

15. *An effective process for resolving land claims and disputes over aboriginal rights must be based around fairness to First Nations, which includes recognizing historic injustices done to First Nations by legislation such as the Indian Act, the policy of assimilation of Indians and obliteration of “Indianness,” the dominant roles of Indian Agents, and social and economic pressures.*

This party agrees that the current land claims process is broken and needs to be drastically overhauled. However, this is a very complex issue and not one on which this party will be able to suggest comprehensive recommendations without a great deal of further consideration. But amongst whatever other reforms might be implemented, the above two recommendations are essential.

### ***Correcting the public record***

16. *The OPP should formally withdraw and publicly apologize for its September 7, 1995 press releases.<sup>10</sup>*
17. *The Government of Canada should formally retract and publicly apologize for the false position it took before the United Nations, i.e. First Nations people fired upon the police at Ipperwash.*

The Inquiry has done its part to expose the truth and expose the lies. It is now incumbent on those who propagated or repeated the lies to do their part, to retract the positions they have taken, and to publicly apologize for the harm they caused.

---

<sup>10</sup> Exhibits P-440, P-576, and P-1033.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

August 1, 2006

---

Murray Klippenstein

---

Vilko Zbogar

---

Basil Alexander

---

Andrew Orkin

**KLIPPENSTEINS**  
Barristers & Solicitors  
160 John St., Suite 300  
Toronto, ON M5V 2E5

**Murray Klippenstein**  
**Vilko Zbogar**  
**Basil Alexander**  
Tel: (416) 598-0288  
Fax: (416) 598-9520

- and -

**ANDREW ORKIN**  
Barrister & Solicitor  
103 Glenfern Ave.  
Hamilton ON L8P 2Y9

Tel: (905) 522-7929  
Fax: (905) 522-0884

Counsel for the Estate of Dudley George  
and Members of Dudley George's Family