

IPPERWASH INQUIRY COMMUNITY MEETING ABOUT ABORIGINAL BURIAL AND OTHER SACRED SITES IN ONTARIO

**Saturday, February 26, 2005
At Aazhoodena (9356 Army Camp Road, RR 1)
Forest, Ontario**

NOTES

1. Opening:

Two Elders, Bruce George and Clifford George, conducted the opening for the meeting.

The Stoney Point drummers played two songs for the opening.

2. Participants: see Appendix A, attached

3. Purpose of the Consultation:

The Inquiry commissioned the research about Aboriginal burial and other sacred sites in Ontario and asked the authors to gather ideas prior to drafting their paper. During the meeting, the authors heard personal stories, experiences and ideas concerning Aboriginal burial grounds and other sacred sites. These notes outline some of the points of view expressed during the meeting about this subject. The information gathered at the meeting will inform the draft paper for the Ipperwash Inquiry. Some of the questions discussed included:

- How should we identify and recognize Aboriginal burial and other sacred sites?
- How can we protect these sites?
- What are some of the threats to these sites?

4. Discussion:

a) Identifying Aboriginal Burial Sites

Darlene Johnston described the fight to preserve the burial sites around her community, the Chippewas of Nawash Unceded First Nation at Cape Croker. At a well-known burial site, Hunter's Point, the First Nations peoples dug circular pits, lined with stones. The bones of the deceased were placed in the pit and covered.

Bill Fitzgerald explained that there are burial sites up and down the coast of Lake Huron. Many have been disturbed as a result development, archaeological work, etc. He will include a history of this area in the draft paper to help identify areas where there are or may be burial sites. Such information can be used for comparative purposes to identify

other burial sites. Radar does not show bones, but it will show disturbances in the ground that may indicate burials.

The government will not accept the identification of burial sites by traditional people. The government requires proof, which usually means seeing the bones of the deceased.

It is possible to identify a pattern of burial sites. This is known as a “predictive model.”

Any areas where villages used to be, near lakes and rivers in particular, will contain Aboriginal burial sites e.g. when the road behind McPherson’s in Grand Bend was lowered, remains were uncovered. Remains were found beside the bridge in Grand Bend as well. At Indian Hills golf course there are human remains, mostly from the War of 1812 when First Nations peoples fought to defend the area.

Before 1941, Army Camp Road did not go straight down to the Lake. In the archives in Ottawa, there is a map that shows a burial ground down by the Lake, where the cottages are (Dr. Gibbs). There are burial sites in the Provincial Park, but also in amongst the cottages.

There are maps that show burial sites in the area of the mortar range on the former Army Camp. The government should return the gravestones for these sites.

Governments in history promised to take care of Aboriginal sacred sites. This land should be returned to the heirs in the area so it can be properly protected.

b) Some of the Problems with the Current Ontario Cemeteries Act (Revised)¹

The *Cemeteries Act* includes sections that cover Aboriginal burial sites. The regulations² under the Act state that if an “unapproved aboriginal cemetery” is identified, the representatives of the deceased shall be “the nearest First Nations Government or other community of Aboriginal people which is willing to act as a representative and whose members have a close cultural affinity to the interred person.” The regulations state that the consent of the representatives is needed before the remains and associated artefacts can be removed from the cemetery, or before scientific analysis of the remains and

¹ R.S.O, 1990, Chapter C.4. See sections 68-73

The following appears on the Ministry of Consumer and Business Services web site (<http://www.cbs.gov.on.ca/mcbs/english/5WBT3S.htm>):

“The *Funeral, Burial and Cremation Services Act, 2002* (the Act) received Royal Assent on December 13, 2002. The new Act is an expansion, consolidation and modernization of two existing statutes, the *Cemeteries Act (Revised)* and the *Funeral Directors and Establishments Act*. The Ministry of Consumer and Business Services is working to develop the draft regulations necessary before the Act can come into force.” With the new Act, the government has not proposed any changes to the sections that deal with Aboriginal burial sites. As of April 19, 2005, the government had not released proposed regulations under the new Act concerning Aboriginal burial sites

² Ontario Regulation 133/92, s.1(b) See: http://www.e-laws.gov.on.ca/DBLaws/Regs/English/920133_e.htm#TopOfPage

artefacts can be conducted. Under the Act and regulations, the owner of the land and the representatives of the deceased negotiate to reach a “site disposition agreement” which is an agreement that sets out what will happen with the remains and the burial site. If an agreement cannot be reached through negotiation, the regulations provide for arbitration.

The procedure under the *Cemeteries Act* requires scientific proof that there are human remains in the area i.e. they usually want to see the actual bones. This is a concern for many Aboriginal peoples who oppose disturbing burial sites in this manner.

The *Cemeteries Act* does not do enough to protect sacred objects found in and around an Aboriginal burial site.

If multiple burials are found in an area, the Registrar of Cemeteries will sometimes designate each burial as a separate “cemetery” rather than the whole area as a cemetery.

Where is information about Aboriginal burial sites located? Who has access to it? What guarantees does the *Cemeteries Act* provide that information about Aboriginal burial sites is not simply shelved and forgotten? First Nations peoples must take an active role in identifying and protecting Aboriginal burial and other sacred sites, but if the responsibility for the collection and preservation of this information is left up to First Nation communities, this can be difficult if a community does not have the capacity to collect and preserve the information. There is a danger that the memory of the burial sites will be lost. This is what happened at Ipperwash Provincial Park. One proposal is to establish or mandate local agencies or an ombudsman with the responsibility to maintain the records, including documents and oral traditions, of the existence of Aboriginal burial sites as they are discovered and that all developers must check with these agencies before commencing any work in the area. These agencies or an ombudsman could guide a First Nation through the *Cemeteries Act* process and provide funding for this purpose.

The *Cemeteries Act* speaks of notifying the closest First Nation when a suspected Aboriginal burial site is found. It is important that the people notified at this First Nation community understand the history of the traditional territory in question and that the First Nation has the capacity and resources to respond. What happens if there is a disagreement within the First Nation community as to the existence of a burial site? How should this be resolved?

How can a First Nation stop the archeological digs in traditional territories, such as Pinery Park, and ensure that proper respect is paid to the Aboriginal people who are buried in such territories?

The *Cemeteries Act* is provincial legislation and this land is under the protection of the federal Crown. First Nations peoples have the Aboriginal right to hunt and fish on their land. This is not a land claim.

First Nations “own” the burial sites of their ancestors and it is their responsibility to ensure they are respected and preserved. First Nations peoples must have access to these sites at all times, regardless of who “owns” the land on which they are located.

c) Sacred Sites

“Sacred” is hard to define. It is a feeling inside, a reverence for an area or an occurrence. Something could happen today and the area could become sacred to First Nations peoples. First Nations peoples are indigenous to this land and they identify with it as the land identifies with them. When the children are here, the land comes alive; the berries are bigger and wild apples grow, but when the children are not here, the apples will not grow. This is First Nations land; this is home. You do not sell something that is sacred.

It is not only the burial sites that are sacred and in need of protection, but plants, medicines, stories and the location of stories as well.

First Nations peoples need to tell the young people their stories. Stories make a people unique and help First Nations peoples to identify with the land. There are stories about Stoney Point in a collection (by John Henry) that a teacher at Walpole has.

There is a story of a small, bottomless lake at Stoney Point, where a serpent lives. It is said that this serpent gives medicines to the First Nations peoples.

There is a story about the little spirit people at Stoney Point. It is the responsibility of the First Nations peoples in the area to feed them.

The people of Stoney Point were known as the medicine people and Stoney Point as the place to be healed. There are certain parts of the Stoney Point land where only certain medicines grow, so it is important to get these parts of the land back and to protect them.

A participant from Saugeen First Nation related a dream he had about Stoney Point in which a lot of angry spirits, with missing limbs, were coming out of the bush. He feels that there are many disturbed burial sites at Stoney Point.

Children playing near the pump house on Stoney Point can hear a child crying.

A Chief was buried in a sand dune in the area in a sitting position so he could watch over his people

Wherever there is an apple tree on Stoney Point land, people lived near by and were buried nearby.

d) Archaeology and Return of Bones and Sacred Objects to First Nations

Today, museums are much less resistant to requests for the return of the human remains. First Nation communities can write to the museum or university in question and request repatriation of remains.

Darlene and Bill can draft the text of a letter for the community and develop a list of contacts to request repatriation of remains; the community can decide who will sign the letters.

As part of the work for the Ipperwash Inquiry, Darlene and Bill discussed writing a plain language kit and guide to the *Cemeteries Act* and how to repatriate remains.

Every museum in the United States has an obligation to make an inventory of the human remains and cultural artefacts it has and to make this inventory public. First Nations can then request repatriation of these artefacts. There is a need for similar legislation in Ontario because even museum staff do not necessarily know what is in the boxes and basements of museums in Ontario and across Canada. If such inventories were mandatory in Ontario, First Nations would have a much better idea about where to send requests for repatriation.

A young person's remains were removed from the Ipperwash Provincial Park and were taken to London. These remains should be returned.

There were about 15 villages beside the river and a lot of artefacts were removed and taken out of the country as well.

Private and amateur archaeologists have removed human remains and cultural objects from the area. How can First Nations communities get these back?

Wilfred Jury conducted archaeological digs in the past and removed remains, both in and around Stoney Point and in Pinery Park. The remains were taken to the University of Western Ontario. Archaeological work is still being conducted in Pinery Park.

There are cultural artefacts in the Forest museum that belong to Stoney Point people.

See "Prehistoric flint report" museum Bulletin #8 and the map in the Bulletin; also the Conservation Archaeology report #2, and the Monica Virtue book.

e) Other Issues Discussed at the Meeting

A participant made the point that Dudley George was a nation-builder and he gave his life as a nation-builder.

Why did it take the Minister of Indian Affairs so long to confirm that there was an Aboriginal burial site in Ipperwash Provincial Park? Canada and Ontario should acknowledge First Nations rights and that First Nations retain these rights unless they are expressly ceded in a treaty. The ancestors of the First Nations peoples in this area did not willingly cede land that contained burial sites. If Canada and Ontario do not acknowledge First Nations rights, then events like Ipperwash in 1995 will happen again and again.

First Nations have to be responsible for educating their own young people about First Nations history and rights. The Inquiry may help by acting as a springboard or catalyst for this.

Canada and Ontario should apologize for what happened at Ipperwash Provincial Park in 1995 and the events that contributed to Dudley George's death, including the appropriation of the Stoney Point land and the forced removal and relocation of the Stoney Point people in 1942.

5. Closing:

The Stoney Point drummers closed the meeting with a number of songs.

Appendix A – List of Participants

About 45 people from Aazhoodena and the surrounding communities.

The two authors of the Ipperwash Inquiry paper about Aboriginal burial and other sacred sites in Ontario, Professor Darlene Johnston and Dr. William Fitzgerald.

Katherine Hensel, Assistant Commission Counsel, and Chair of the meeting.

Some Ipperwash Inquiry staff members.

Counsel for some of the parties to the Inquiry.