

Chief of Ontario Presentation to the Ipperwash Inquiry
Ontario Regional Chief Angus Toulouse
Speaking Notes

March 8, 2006

Traditional Greeting.

I would like to extend my appreciation to Justice Sidney Linden for this opportunity to present our perspectives, the First Nation perspectives on how to prevent violence from happening in comparable situations.

My name is Angus Toulouse and I am the Ontario Regional Chief, elected by the 134 First Nations to facilitate a common voice to common issues critical to First Nations in Ontario. Also, today you will hear from members of the Political Confederacy who will provide you with regional perspectives on:

- First Nations relationship with the Crown governments
- First Nations control and management of lands and resources
- Outstanding land claims and the process to resolve them
- Systemic issues and government responsibility to create solutions

In our presentation over the next two days we will be specifically addressing the systemic issues affecting First Nations and government relations. As First Nations we are motivated to take direct action by many factors. Our frustrations stem from the barriers created by governments when exercising our inherent rights, our experience with systemic issues, and the lengthy process for dealing with our disputes. Today you will hear the sources of our frustrations as presented by the Political Confederacy in a series of panel discussions. Tomorrow, it is our intention to bring forward constructive recommendations that we feel will be helpful in developing your final report.

Describe the motivation by First Nations to take direct action

The Canadian government has not made a commitment to engage and develop an effective relationship that respects the fundamental values and principles of First Nations peoples. We are Nations, and we have the responsibility to govern ourselves according to our customs and traditions. For hundreds of years the Canadian government has chosen to ignore our perspectives and our ways of dealing with our issues. This is an attitude that needs to end and a new approach developed. It would be preferable to approach First Nations in a government to government matter, with the inherent rights and traditional laws as the focal point. The government cannot continue to take an approach that they know what is best for our people, and continue to force First Nations down a road in which is unacceptable.

The government of Ontario has stated they are committed to jointly developing policies with First Nation however not in areas that are fundamentally important to us. Areas such as consultation and jurisdiction are areas that the province is unwilling to meet with us on. Our current relationship tends to lead to new programs and services for First Nations people. However, these policies and guidelines must comply with Provincial standards. First Nations do not feel comfortable in this process without ensuring that our jurisdiction form the bases of policy development. The government of Ontario must ensure our jurisdiction forms the bases of the discussion. We do not want to negotiate jurisdiction, rather we want the government of Ontario to recognize that we have jurisdiction to manage our own affairs.

It is the relationship to the land that remains a constant for First Nations across Ontario. Our relationship to the land remains an imperative and essential link to the identity of First Nation across Ontario. When our relationship to the land is threatened by government, First Nations are forced to take direct action, by way of occupations and blockades. We have used these methods of direct action to educate the general public about our views, and demonstrated to the Canadian government that this is our land and we are not going anyway.

The current process to deal with outstanding land claims has not been fruitful in the Ontario experience. There is a long list of unsettled land claims, and a number of resource management issues that require the government to consult with us on and accommodate our issues. The courts have been too costly and uncertain to be used as an effective means of problem solving. A new tripartite process is required but this will require a political will, human and financial resources and the suitable time to execute properly. Our frustrations will not find closure unless the government chooses to honour and respect the treaties of Ontario in line with section 35 of its own constitution. The honour of the Crown requires nothing less.

Intent of Section 35 ignored by Crown governments

It is our inherent and treaty rights that are paramount in viewing section 35 of the Constitution. Our inherent rights do not begin with s. 35. Our rights have been with us since time immemorial. The purpose s. 35 was to reconfirm the existing inherent rights and the historic treaty relationships between First Nations and Crown governments. The Crown governments must come to realize the true purpose and comply with s. 35 by respecting our inherent right and renewing our historic relationship which is Nation to Nation.

The government of Canada has fallen silent when it comes to section 35 of the constitution and is once again operating on a colonial mindset. The intention of Section 35 of the Canadian Constitution was to recognize and affirm our Aboriginal rights and treaty rights. This includes our right to govern ourselves:

- manage and control our lands and resources, which includes our right to harvest food and medicines within our traditional territories;
- our right as human beings to not be subject to systemic barriers put in place by a number of public agencies including the Ontario Provincial Police;
- our right to develop our own process to resolve our disputes, we do not have to continue to use the court process which has proven ineffective;

“S. 35 (1) provides the constitutional framework through which Aboriginal people who lived on the land in distinctive societies with their own practices, traditions and cultures are acknowledged and reconciled with the sovereignty of the Crown” (Van der Peet);

As First Nations peoples we have used occupations, blockades and protest to remind Canadians that section 35 was not an empty promise in our minds, it is reality. The time is now, for the government to begin putting into practice the true promise of s. 35. Education is a good starting point for governments to understand our inherent rights and traditional laws. This is the first step in the long process of reconciliation and recognition of our rights as the First peoples of this land.

The federal government and Assembly of First Nations have entered into a political accord that set out the process for the recognition and implementation of First Nation governments. The accord provides both First Nations and the Federal Crown with a set of principles and outlines the commitments that must be made by both parties. One of the fundamental principles included in the accord is the recognition of the inherent right of self-government. The Ontario government must comply and respect the fundamental principles of this accord!

The Supreme Court of Canada has stated time and time again that reconciliation must be negotiated between Canada and First Nations in a manner that is consistent with the honour of the crown. It is unfortunate that the Crown governments do not respect treaties and s. 35. The government instead chooses to create barriers as we exercise our Treaty and Aboriginal rights. We need the Canadian government to comply with our treaties and historic agreements, remove themselves from our affairs and meet us at the table on matters of conflict. First Nations people would prefer this approach!

Government's response

According to our historic relationship the Crown government has no business imposing their will on our people and our way of life. We follow our laws based on our principles and values, our laws were given to us by the creator, and have been with us since time immemorial. The Crown governments must approach First Nations in a matter that respects the Nation to Nation approach, and understand that our way works!

Both Crown governments have taken a coordinated approach to their own ignorance of section 35 of the Constitution. Neither Crown government has accepted responsibility in terms of who has jurisdiction over matters that affect our people. The federal government has the fiduciary responsibility however, we are constantly subject to Ontario provincial laws that do not respect our inherent rights and for the most part prevent our way of life. It has become increasingly frustrating to watch both Crown governments play jurisdictional volleyball with matters of importance to our people.

The province of Ontario must understand that we have the right to govern ourselves according to our own customs and traditions. The province has no jurisdiction over any of our affairs. We have the ability to manage our lands and resources and care for the well-being of our children and families. To assist with this understanding it becomes incumbent on the Crown governments to strengthen its institutional capacity within all concerned Ministries and offices to build effective partnerships with First Nation peoples.

Government officials have harassed our people when exercising our rights, most notably when we exercise our right to manage our lands and resources within our territory. We are constantly being forced to defend our inherent rights in the Canadian court process. This leads me to my next point. The Canadian justice system must be examined to ensure it respects our rights and complies with the Canadian constitution. In past years we have watched the Crown governments continue to use the justice system to benefit their own interests. However, Crown governments are constantly uncommitted to implementing positive court rulings that benefit our interest.

The Canadian justice system does not recognize our laws and cannot interpret our traditional laws. Our values and principles do not form the basis of the Canadian justice system and as such will not work for First Nation peoples. The over-representation of First Nations in the justice system speaks loud and clear to this fundamental problem. First Nations need the Crown government to remove themselves and stop creating barriers to our ability to rekindle our systems of justice. Furthermore, as Nations, we require the Crown governments to work with us in creating a process to resolve our issues in relation to all areas of Canadian law that affect First Nations peoples.

First, we need a political will to develop such an approach!

We also need a political will to breakdown the barriers to the systemic racism issues that currently exist. The Canadian government must take responsibility for its past actions and assist First Nations to create positive lasting solutions to the systemic issues our people are subject to on a daily basis. The general public lacks the understanding about our inherent rights, and our aspiration for our future generations. There needs to be more focus on providing the general

public with the necessary sources to educate themselves regarding our principles, values and future direction.

Agencies such as the Ontario Provincial Police need to take a lead role and set the example for other agencies in the education of their employees on our traditional values and most important our future aspirations. Public service employees and people in influential position must be given accurate perspectives regarding First Nations cultures and traditions. They also need to understand the sources of our frustrations and our inherent rights as we understand them. We heard from the youth loud and clear, we need a change in attitude!

I am one of many First Nation leaders that have offered the solutions

Mr. Commissioner, in the next two days you will hear the solutions that have been brought forward in the past. The government has already heard that we need:

- Meaningful and full recognition to Treaty and inherent rights, particular regard for the spirit and intent of the Treaties understood by the First Nation parties;
- The government of Ontario must continue to build constructive relationship with First Nations built upon mutual respect;
- Urgent changes are needed in the area of lands and resources, lands claims must be resolved in a timely matter;
- The government must commit to work with First Nations to promote effective public education regarding First Nation rights, histories and future aspirations;
- Protocol must be developed to ensure peaceful access to sacred sites regardless of location;
- Police services in Ontario should be strongly encouraged to examine the operational procedures and make fundamental changes to the attitude of its employees.

These solutions have been incorporated into our recommendations which will be our final presentation to you. We too want to prevent violence from occurring as a result of our frustrations. First, we need both the province of Ontario and the Federal Crown to approach matters that affect us in a Nation to Nation approach. We need a commitment from the Canadian governments to work with us to create innovative solution to our land claims, resource and systemic issues and work towards solutions to our socio-economic issues. Finally, we need respect from both levels of government and mainstream public for our inherent rights and our ability to govern our own affairs.

First, Government needs to listen!