

# INSTITUTE OF CURRENT WORLD AFFAIRS

SM-16

"Indian Summer"

4 November 1990  
Vancouver, B.C.

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4 West Wheelock Street  
Hanover, New Hampshire 03755

Dear Peter,

Instead of a welcome extension of balmy weather, a time of warm and easy comfort before winter sets in, this year's Indian summer has been a bomb. After the scuttling of the Meech Lake accord by a lone Indian in the Manitoba legislature and the much-maligned premier of Newfoundland last June, Canadians expected a respite from the haranguing over inequities in the Constitution. Liberal Party leader Jean Chretien, the man who expects to be the country's next Prime Minister, told everyone to just relax and enjoy their vacation season--Canada would still be Canada when the leaves began to change and the kids were back in school and the Mulroney government was back in session in Ottawa to suffer the thrashing it deserved. By the third week in July, however, the country was embroiled in debate over how to handle an explosive situation in a suburb of Montreal, where several hundred Canadian Army troops in full combat regalia were positioned to envelop several dozen armed Mohawk Warriors.

Nobody had anticipated that Native Canadians' anger and frustration over their uncertain status in the constitutional order would manifest itself in armed rebellion. For most of August and part of September the tension was unrelenting, as talks between the Mohawks and various squads of federal and provincial officials broke down repeatedly, and frequent outbursts of vicious taunting across barbed-wire barricades seemed to herald a bloody shootout. Those Canadians who agonize over the general implications of singular events were understandably shocked, dismayed, outraged and nearly despairing over the televised spectacle of law and order breaking down into moral and physical chaos.

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Perhaps you heard about the crisis at Oka, Quebec. It lasted 65 days. It was reported on in the **New York Times**. Local officials had decided to build an extension of a golf course on land that was claimed and regarded sacred by Mohawks living on the adjacent Kanasatake reserve. The Indians set up and fortified a blockade to stop construction. Quebec police attacked with assault rifles, tear gas, and concussion grenades. An officer was killed in the ensuing melee. The police surrounded the reserve and prevented any food or medical supplies from being sent in. Then Mohawks at the nearby Kahnawake reserve blocked highways leading to an important bridge across the St. Lawrence River. [See map on page 14] That's when things got considerably more complicated, and everyone knew this unwelcome confrontation between an Indian faction and public authorities would be dragged out into the fall.

The siege at Oka came to an unceremonious end in mid-September. Most of the warriors surrendered (a few slipped away) and were trundled into provincial police custody. The Army cleared away the barricades and mopped up what was left of arms caches and the sundry remains of the Mohawk stronghold. The proximate cause of the crisis was buried under taxpayers' money, as the federal government purchased the disputed land next to the golf course. Charges against a number of Mohawk women and men were laid in court, and there was lots of serious sounding talk about a full-scale inquiry into the mess. The **Globe and Mail** editorial staff lamented:

It should never have come to this: encampments of armed Canadians confronting each other, attempting at the point of a gun to accelerate the pace of resolution to long-standing grievance on one side, and on the other to uphold the laws of Canada. Dishonor has taken its toll equally among belligerent Warriors and unsympathetic non-Native residents; and among inept police strategists and slow-witted politicians.

A moral victory was declared by many Native people and their supporters all over Canada. The relief that came when the siege was lifted without a much-feared massacre was tempered by an assortment of ironies. Many normally anti-gun Canadians had sided or at least sympathized with heavily armed Mohawks. The premier of autonomy-minded Quebec had asked the federal government to intervene--massively--in matters of provincial authority and jurisdiction. Canadian troops had been called in to serve as *de facto* peacekeepers on native soil. Native elders had condemned Ottawa for sending in the military, even though the ostensible first objective of the Army was to protect the Indians from an over-aggressive Quebec police force.

There is no consensus on what is just anymore. A professor of philosophy excused the Warriors' banditry by placing their struggle in the context of civil disobedience: "However much we may regret the armed confrontation, the legitimacy of both the Mohawks' demands and of the means they have employed cannot be

denied." Not surprisingly, Canada's Minister of Justice saw things differently: "Only those with legal authority and who are under the control of democratically elected governments may use firearms and force to uphold the law. Our government will not tolerate such use of force by others." Polls show that most Canadians believe the Mohawks and other Indian bands do have a just cause, but they also believe there can only be one system of justice for all citizens. Minority groups, even when their rights are ignored or trampled upon, have no justifiable resort to violence. At first glance, this view seems congruent with the statement of an Indian leader who declared just before the flare-up at Oka that "all we want is justice, and the only people who should fear justice are criminals," but in the logic of a people in revolt the "criminals" are politicians in Ottawa and Quebec City (and other provincial capitals) who wrestle with their principles while uniformed soldiers and police do their dirty work.

The whole truth about, behind and inside "Oka" (people now use the term to signify a universe of vexing, unresolved issues about Native rights) may never be known. The crisis unleashed a torrent of self-abnegation and counteracting waves of self-praise among the white majority. Newspapers carried columns bearing headlines like "The National Shame" while the letters pages filled with glowing admiration for the Army's remarkable discipline and self-restraint in a devilish situation. In between the bouts of heavy weather, readers and late-night television talk show addicts learned a lot about the Mohawks' role in helping the British Canadians defeat the Americans in the War of 1812 and how the Six Nations' Iroquois Confederacy, in which the Mohawk "nation" has always played a key role, contributed much in the way of democratic ideas and structures to Benjamin Franklin, Thomas Jefferson, and other framers of the U.S. Constitution. (Did you know that the eagle on our dollar bill is an Iroquois eagle, and that the arrows in its talons represent the six nations?) Even if and when concern for the rightful place of Natives in Canada today settles into a relatively calm indifference, the country will have learned something about its past.

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When so important a word as justice gets weighted down with contradictory understandings, it becomes profane. People hurl it in your face; they mean to use it like a weapon, and make it hurt. One is not allowed to get anywhere close to a sound comprehension of justice for Native peoples without listening to or reciting a litany of injustices that dominant white society have heaped upon the decimated but still defiant aboriginal nations of Canada. Indians were not allowed to vote in federal elections until 1960. Between 1927 and 1947, it was illegal for anyone, Native and non-Native alike--to raise money for lawsuits involving Indian claims. Until the mid 1930s, the RCMP enforced a pass system on Indian reserves: no Native could leave without permission from an Indian agent. In the 1950s, at the so-called "residential schools" run by Christian missionaries, administrators used electric shock treatment to

discipline Native boys (who also had their heads shaved) and girls who had wet their beds were forced to drape the stained sheets over their heads. Until 1982, thousands of Manitoba Indian kids were put up for adoption in the United States and other countries, a practice branded as "cultural genocide" and finally terminated by a provincial court judge. In British Columbia, the potlatch ceremonies and rituals of west coast tribes was banned in 1854 and remained so for nearly a century. There's more, or course; these are randomly selected samples of abuse, discrimination and neglect.

The cumulative impact of injustice is born out in social and economic indicators: unemployment in Native communities ranges from 30 to 90 percent; 40 percent of Native people are illiterate; 30 to 50 percent of on-reserve housing is considered substandard and in need of repair. The suicide rate among Canadian Indians is reportedly the highest of any racial group in the world. The federal government spent \$13 million for Canada Day fireworks and balloons last July, when it also announced a \$10 million cutback in support for Native social programs. Last year, in a cunning maneuver to bring attention to their plight, Indian leaders invited a former ambassador from South Africa to witness and comment on their apartheid-like status in a society which takes great pride in its defense of international human rights. This October, partly as a result of Oka, the United Nations Human Rights Committee voiced unanimous criticism of Canada's treatment of its aboriginal minorities.

People in the white majority acknowledge the problems but are reluctant to shoulder the blame. They argue that most of the Indians' social wounds are self-inflicted, most of the unjust laws have been abolished. Moreover, there is ample evidence of reverse discrimination. Indians living on reserves pay no income tax and no property tax. No non-Native has the right to cross into Indian territory for the purpose of collecting debts. The federal Indian Affairs department administers a variety of programs that provide or pay for education. Housing is subsidized. Non-status Indians--those who are not registered under the 1869 Indian Act and do not live on reserves--do pay taxes, but remain eligible for health and education benefits not available to other citizens. "Welfare bums" is a commonplace condescension.

When the Indians speak of justice, they are not talking about handouts. Most of them mean respect for their cultural traditions, recompense for wrongs past and present, and the entrenchment of their aboriginal rights to land and self-government in the Canadian Constitution. In their view, these things have been denied them since Canada came into legal and political existence; treaties have been violated, promises broken, agreements ignored, principles abandoned. Section 35(1) of the 1982 Constitution Act affirms "existing" aboriginal rights, but nowhere are these rights expressly delineated. A series of constitutionally mandated conferences involving First Ministers and representatives of Canada's First Nations (this latter term is required lingo) between 1983 and 1987 failed utterly to produce a consensus on what the right to

self-government means. Earlier this year, when it looked as if Quebec might win its bid for "distinct society" status through passage of the Meech Lake accord, which had nothing in it for Native Canadians, Manitoba's Indian leaders coached an Ojibwa member of the Legislative Assembly, Elijah Harper, to kill the amendment with a procedural hammer, knowing full well there would likely be some sort of retribution later on. For most Native groups, the Canadian state has turned out to be an empty shell with very rough edges.

The Mohawk Warriors mean something more than legal rights when they speak of justice. They demand the restoration of their political sovereignty, which their ancestors never relinquished, even under oppressive and sometimes brutal conditions. This is clearly asking too much of a country already racked with worry and self-doubt over what sovereignty is all about. The Prime Minister has been quite clear on this point: "Native self-government does not now and cannot ever mean sovereign independence." Columnist Jeffrey Simpson adds a little venom to this strike at Native pretensions toward self-determination:

The Mohawks say they want a better deal from governments and self-government, including full sovereignty over their territory. Then they produce a background paper laying sovereign claim to chunks of southern Quebec, eastern Ontario and upper New York State, territory within which they are a tiny minority. Get serious.

One of the lessons from the long, angry summer is that Native demands, despite a common core of grievance, are actually quite varied. Approximately two-thirds of Canada's half-million status Indians live on about 2300 reserves, some of which are far removed from densely populated areas, some (such as the Kahnawake Reserve near Oka) a stone's throw from major urban centers like Montreal and Vancouver. The remainder, plus another half-million or so non-status and mixed blood Indians, live in cities, towns and small villages all across the country. These latter souls are still isolated, but without the splendor of wilderness, and in ways that are far less amenable to judicial repair. For the moment, however, the combination of Elijah Harper's gumption and then the armed stand-off at Oka have given rise to a wave of pan-Indian solidarity. To anyone not familiar with the current scene, Mohawk Chief Joe Norton's statement, "As individuals we may appear divided, but collectively we're one," might sound nonsensical, but it aptly describes an unwritten code of behavior for Indians everywhere: no more passive resistance, no more deference to non-Native authority, no more humble acquiescence to the inscrutability of the white man's sense of fairness.

All summer long Indians blocked roads, stopped trains, erected barricades across bridges, bulldozed a river bed (to stop a dam construction project), staked claim to their ancestral lands, and berated white Canadians for their seeming inability to

distinguish right from wrong, just from unjust. For the first time, the cry for justice carries with it a well-articulated OR ELSE. A chief from the Kespiox band in British Columbia issued a call for "anarchy" across Canada to enforce their land claims. "We are not going to waste time in token protests. That's for university students. We're looking for the most effective way to destroy the economy if we have to." They won't have to look very far at all in a country where the economy relies heavily on logging roads, railways, and electrical transmission lines, all of which cut across Indian land and are easily accessed by savvy saboteurs. Perhaps they're bluffing, perhaps not.

It is November already, and it's raining cool sheets in Vancouver, but the heat of the summer's events has yet to dissipate. Instead of enjoying a stretched-out summer holiday season, Canadians have had to stretch their sense of compassion for the underdog to an uncertain edge. What a pain these Natives are, tying things up, getting in the way. What are we going to do?

This is what people are asking themselves. While many Canadians are quick to voice a sanctimonious sympathy for the Indians' grievances, I think most are still harboring a wish to see them assimilate as individuals into the dominant society--that's the only way Natives will ever catch up and get ahead in life. "They are just being silly," I was told by a high school student from Nelson, British Columbia. "The Indians should realize they are asking for more trouble than they can handle." In a book entitled *Indian Country: Inside Another Canada*, author Larry Krotz recounts a meeting with a man in his 50s who had taken his family on a summer fishing trip to northern Ontario:

You know, I've been to Indian reservations all over the United States and Canada, and I've come to the conclusion that there's only one solution. I'm afraid it's a cruel one, but someone, sometime, is going to have to go in there and say, "We won, you lost. No more this nonsense, no more treaty, nor more reserves. Get out there and integrate. Fit in."

One of the strange ironies of Canada's situation is that the government never did adopt a deliberate strategy of conquest; if it had, present-day authorities might find it easier to abandon efforts to keep alive vestiges of the First Nations' once impressive civilization. Instead of a Custer figure to symbolize the daring abandon with which the United States pursued its wars of conquest against the Indians in the 19th century, Canadian history tells of the protective roles played by the Mounties and the Indians' "Great Mother" (Queen Victoria); Sitting Bull and other chiefs sought refuge across the "medicine line" border between the United States and Canada. (Much to my amazement, some of Canada's Native leaders point favorably toward some aspects of U.S. policy, mainly because Supreme Court Justice John Marshall established in the 1800s a legal doctrine wherein Indian tribes were to be dealt

with as sovereign nations. So far it looks to be a hollow victory.)

The Canadian federal government has been attempting to hasten the process of integration by a number of non-violent methods for many years. Duncan Campbell Scott, Superintendent General of Indian Affairs in 1920, spoke plainly: "I want to get rid of the Indian problem...Our object is to continue until there is not a single Indian in Canada that has not been absorbed." Fifty years later, the Trudeau government's Indian policy was designed to gradually remove the minority's special legal status (under treaties and other arrangements) and shift all responsibility for supporting Native communities to the provinces. A 1969 policy document, introduced as part of Trudeau's "Just Society" program, blamed the social and economic stagnation and the dependency of Indians on a long-standing tradition of "internal colonialism." The only acceptable remedy for this situation was to integrate Indians fully and equally into Canadian society. To achieve this objective, report the authors of *The Quest for Justice: Aboriginal Peoples and Aboriginal Rights*, the report recommended the repeal of the Indian Act, elimination of the Indian Affairs Department, and the extension of all provincial economic, social, educational, health and other services to Indians. Native people abhorred and fought against this "solution", perceiving it as a thinly-disguised attempt to dispossess them of their rights. The current government appears to have so far attempted to follow a dual track policy, on the one hand quietly relinquishing administrative control over some Native programs to provincial agencies, but at the same time renewing at least rhetorical commitments to create a well-defined constitutional niche for the First Nations.

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I went to an open forum on "Native Rights, Native Wrongs" at the CBC building in downtown Vancouver in early October. You had to get tickets; they were free of charge, but in strictly limited supply. We go-getters waited in line for nearly an hour before being shepherded down a series of staircases and into the facility's largest television studio. This was to be a taped event, "live for all us participants, but broadcast a few weeks later.

Every seat was filled. The atmosphere was electric. At least half the audience were Indians. There were clusters of people going over hastily scribbled notes and typed position statements, while others like myself sat alone, feigning stoic impassivity in this brightly lit media bunker that was about to pop and burst open with pent-up emotion. A well-known newscaster served as moderator. He warmed up his vocal chords and tried to make us all feel at home by asking where people were from. They were from everywhere: the Fraser Valley, Vancouver Island, Prince George, Prince Rupert, the Queen Charlottes, the Okanagan--every corner of the province as well as the heartland regions were represented. Everyone was encouraged to speak their minds once all the cameras and

microphones were in proper sync and the tape was rolling. "This is YOUR show," we were reminded by our Donahue, "We want to know what YOU think."

A panel of experts was marched onto the set, followed by several studio personnel who did the final sound checks and applied a few more pats of powder to dull the shimmer of celebrity cheeks under the hot lights. The center-stage seat went to Tom Siddon, Mulroney's Minister of Indian Affairs, and a former professor of engineering at Simon Fraser University here in Vancouver. He looked like a nice man, a little vain, perhaps (three times I saw him check his visage and pant creases in a floor-mounted monitor), and I wondered what it felt like to be a walking human sacrifice, taking barbs from all sides no matter what he said or did. Siddon had to endure slashing criticism for his wooden performance during the Oka crisis. Georges Erasmus, head of the Assembly of First Nations (a pan-Indian lobby group based in Ottawa), had complained bitterly in public that the Minister was "incredibly thick" in the head.

Siddon was flanked on his right by three prominent Indian leaders, and on his left by the B.C. Minister of Native Affairs, a political scientist, and a magazine publisher. The program's producer started his countdown, the crowd went into a hush, the moderator took his cue, and we were off to the races.

First there was a big map of British Columbia displayed on several TV screens, with the Indian claims areas shaded red. (Wow! They want ALL that space?...Graphics are such reliable instigators.) Each of the panelists made brief, introductory remarks: the chiefs talked about their frustration with government, their reluctant but necessary reliance on the courts, their hope that Oka would be seen as a turning point, away from violence and despair and toward just settlements. They tried to allay much-publicized fears among the mass public in B.C. that the Indians, if and when their claims to aboriginal title won legal and political sanction, would kick corporations out of the forests and mines and force businesses and homeowners to hand over their mortgages. Jack Weisgerber, the provincial minister, said his government was ready to deal, but he was circumspect about details and conditions "at this time." (I was reminded of former B.C. Premier Bill Bennett's 1984 pledge to "make haste with prudence" on the matter of Native self-government.)

Paul Tennant, a professor of political science and author of a new book entitled **Aboriginal Peoples and Politics: The Indian Land Question in B.C.**, calmly states his firm conviction that most people in the province were steeped in understandable and reparable ignorance about the nature of Indian claims and the practical consequences of their being worked out through negotiations. Ted Byfield, publisher of **B.C. Report** magazine, was less sanguine, and his very presence drew hisses from pro-Indian members of the crowd. The Byfield clan are considered unrepentant assimilationists. His son Link, the magazine's editor, wrote last August that "...the Indian faces a single choice. He can join white society, abandon his beaten



community and insist upon his right to live on the same terms as everyone else...Or he may sit in slavery on his reserve, beholden to grudging white alms from faceless bureaucrats in Ottawa who are adept at making him beg." Indians don't much like bureaucrats either, but they like this kind of talk even less.

The audience had ample opportunity to speak. Many views were heard. An elderly man in a rumpled grey suit announced that he represented a citizens coalition that favors equal rights for all individuals and opposes special rights for any groups in Canada. A large woman wearing a black beret said she was ashamed of being a Canadian, having been awakened to the injustices heaped on Native people by the alarming events at Oka. "We've GOT to reach honorable compromises," she said, trembling a bit with the nervousness of having everyone's attention focused on her, "or else there's going to be a civil war in this country, and I'm not very interested in THAT!" An even larger man, with long black braids and more than a hint of anger in his voice, called to mind the criminal double-dealing of past white governments. "Your people gave us blankets in exchange for our fish and furs, and the blankets were infested with smallpox." This undocumented reference to history drew a scattering of groans from the audience. Byfield rolled his eyes a little, but Bill Wilson, President of the B.C. Congress of First Nations, nodded his head in affirmation of the alleged atrocity.

A white guy wearing a denim jacket and a baseball cap stood up in the back row and pleaded, almost shouting, "My livelihood and my culture are up for grabs! What am I supposed to do? I've been fishing the B.C. coast for 20 years, and I've paid tens of thousands of dollars for licenses to do it legally. Now you tell me the Indians have prior rights. What am I supposed to do? A woman chief from the Musqueam band, who is also a lawyer, started to respond calmly. "Take that frustration you feel so strongly right now, sir, and amplify it several hundred times, for the years Native people have been trying to make themselves heard, peaceably, and you will begin to understand the depth of..." She was interrupted by the fisherman, unable to contain himself: "Why should I be held responsible for what happened years ago? I didn't do it--I didn't do anything!"

Someone else in the audience called him a bigot. He yelled back "I am NOT a bigot!" I've got a family to feed! Since when is self-interest not legitimate in this province? How come..." He was interrupted by Bill Wilson, a proud man who always wears a navy blue V-necked sweater, always rolls his sleeves up, always mentions his children in public engagements such as this one, and is on record for thinking himself the intellectual equal of Pierre Trudeau. Wilson boomed from his seat on the stage: "Don't tell ME about how many years you've been at it. My ancestors have been in the land and fishing these waters for 25,000 years..." (Ted Byfield muttered "so what?" but Wilson ignored him)...and then the Europeans got lost in the fog and show up pretending to own the place. My father was responsible for keeping 400 people alive on our

reserve, and he did it, no thanks to you or anybody else. Now MY children have a right to..."

It went on and on like this for two and a half hours. During several short breaks, where the commercials would be fit in later, everybody seemed to settle down a bit. I asked the man next to me, who turned out to be an Indian chief, how he thought things were going. He said the moderator was making a very difficult job look easy, and I agreed. Then he launched into an impromptu lecture about how white attitudes of racial superiority were rooted in the way we are taught to comprehend theories of evolution. "You have been conditioned to think of us as lesser beings, a primitive race, somewhere lower than yourselves on the evolutionary ladder." There was no time to pursue this further, as the show was about to go on, but his comment spirited from my memory the obtuse fact that Western theologians found it terribly difficult to fit the aboriginal peoples of the Americas into their Bible-based conceptions of world history. It took the Vatican until 1512 to declare the Indians as genuinely human beings, and for a long time thereafter Native Americans were believed to descend from the lost tribes of Israel. In this well-schooled Indian's view, secularization and the blossoming of sciences like biology and anthropology haven't helped much to spread the real truth about his ancestors' civilization that would make us all free from contemptible racist stupidity.

I think the wisest thing I heard that evening came from an unlikely source, the sarcastic publisher of what is often described as a "right wing rag." His remark was uncharacteristically non-ideological--it had nothing to do with property rights--and it was barely audible. He said: "We have many obligations...and some of them we will never meet."

Perhaps the most eloquent statement came later, at the very end of the taping session. You know how media people are adept at making the last word in their program sound just right, the perfect wrap. Time was running out fast. The off-camera producer was giving the moderator frantic hand signals to finish things up. Our host reacted quickly and skillfully, shuffling down the aisle to the front row, where an ancient and seemingly benign Native Elder had been sitting quietly throughout. "Tell us (oh woman of great wisdom, or something to that effect), what have we accomplished here tonight?" She was silent for a long, suspenseful moment. Then she screwed up her face in derisive consternation and blurted "Nothing. Nothing at all." It was not what anyone expected to hear, it was just the truth.

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In September, the government of British Columbia reversed a 119-year-old policy of refusing to negotiate with Indians over their land claims. The turnabout was the result of many things--Oka, local Native militancy, growing public awareness of injustices of all kinds, the mounting cost of NOT reaching agreements about who owns what in the province (see below),

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Premier Bill Vander Zalm's flagging popularity, and his need to look good on a big, tough issue. I won't hazard a guess on which stimulus provided the sharpest jolt, but this decision signals an important new phase in the ongoing process of determining what is a just division of British Columbia's bounty. Until now, negotiations were limited to Indian bands and the federal government; provincial authorities sat-in as interested observers, but not active participants. This was an untenable situation, leading nowhere but disappointment and dissatisfaction, since in Canada's federal system the provinces own and control their natural resources. Ottawa lacks the authority (never mind the political will) to grant aboriginal title to provincial crown lands. No constitutional changes to define aboriginal rights can be made without provincial consent.

Native leaders in B.C. have hitherto had no other recourse but the courts to make any meaningful headway. Although they have scored significant victories in that venue, establishing among other things the primacy of Indian fishing rights and the legitimacy of their claim to legal title, no court decision can go further in practical terms than to set the table for tripartite negotiations. Native lawyers know they are standing on solid, almost secure legal ground when they invoke British Common Law principles and, when historical circumstances allow, the sanctity of contracts. This route to justice is horrendously expensive, however, and it takes forever. Political parleys are thus a practical and preferable alternative.

The new policy, according to the premier and his Native Affairs Ministry, is based on "Fairness, Balance, Affordability." These terms have yet to be fully elaborated upon, but to be just, any settlements reached between the province, tribal councils, and the federal government will have to be perceived as fair for everyone, Native and non-Native alike. "Balance" probably refers either to a hoped-for consistency in the arrangements with each claimant, so as to avoid one tribe getting a lot and another almost nothing, or to an equitable share of costs and concessions to be made by the two respective levels of government, federal and provincial. At any rate, balance always sounds good. "Affordability" is a rat's nest of fearful speculation and vituperative disagreement over what land claims will cost the taxpaying public. Some say billions; some say more than that--bezillions. Nobody knows, but absolutely nobody figures it isn't going to drain a lot of financial capital from public coffers. Justice doesn't come cheap, but governments (meaning, ultimately, taxpayers) have been given fresh incentive to get on with the dickering. Using freedom of information statutes to get ahold of a confidential accounting report, the **Vancouver Sun** released some melancholy figures last week. British Columbia may forfeit a billion dollars in lost and delayed investment before a single Indian land claim is settled. Facing the uncertain outcome of negotiations, five companies have cancelled forestry and mining projects; legal fees related to claims are costing governments, organizations and businesses \$5 million each year; at least another million in taxes and royalties cannot be collected.

British Columbia is a special case in Canada. Some 77,000 Indians, representing nearly 20 percent of the total Native population of the country, live in B.C. The province has 198 Indian bands (one third the total number in Canada) organized into 30 tribal councils. A little over half of the Indians live on reserves, of which there are 1650 scattered throughout the province. Most importantly, no matter whose side of which argument about justice one chooses to take, only a small fraction of the province's Indian population and its territory is covered by an existing treaty. This fact, more than the somewhat disproportionate abundance and expansiveness of claims, is what makes B.C.'s situation anomalous and frightfully unpredictable. Most of Canada's Indians belong to tribal groups that made treaties with either the Canadian government or, in an earlier time, the British Crown. In such cases the Natives ceded title to ancestral lands in exchange for certain goods, protections, reserve lands and financial compensation packages of various types and sizes. In British Columbia, however, the settlers just moved in on the Indians and took over. No treaties were signed. The Natives never surrendered title, even if they did succumb, without resort to arms, to the confining facts of occupation and control by white people. Now the Indians' leaders say their people still own the land. "The First Nations are the rightful landlords here, and it is time we started collecting the rent" is common parlance in the posturing that has preceded formal bargaining.

The negotiations haven't really started yet. Armies of lawyers are being rounded up, and there's a lot of reconnoitering going on. Last week, Brian Mulroney made only his second trip to Vancouver since he became Prime Minister in 1984. He did not meet with Premier Vander Zalm. This was strange behavior, but I will not go into the myriad explanations for it; what is pertinent is that Mulroney did meet with spokespersons from the B.C. Congress of First Nations (representing about half the Native population), the Union of B.C. Indian Chiefs (another, more militant quarter), and other Native organizations. He gave them solemn assurances--Mulroney is good at this--that their concerns would be dealt with fairly and with a new sense of urgency. The Prime Minister had made a similar, more general pledge a month earlier, in the House of Commons, where he announced that his government would give high priority to a four-part agenda: land claims, the economic and social conditions on reserves, the relationship between aboriginal peoples and governments, and concerns of aboriginal peoples in contemporary Canadian life. Everybody's waiting to see if this means business, or just business as usual.

Even though Vander Zalm and Mulroney are now both freshly on record as being ready to negotiate, there is still a major obstacle to overcome before the talks can carry much meaning for Indians and non-Indians alike in B.C. Who will pay? The provincial government insists that Native land claims are primarily a federal responsibility; this was one of the bases for British Columbia's entry into Confederation in 1871. The federal government argues that the province must bear a share of the financial burden, either in cash or cash equivalents,

such as land and resource harvesting rights. Natives have heard all this before, and the pragmatists among them are fully aware that their rights will never be clarified until the matter is resolved. They will probably have to wait for a Supreme Court decision, who knows when.

In the meantime, wild, huge cost figures keep flying off people's tongues. "Native claims will break the bank," the story goes, while other, more authoritative sources reveal that Canada has a more serious foreign debt problem than Mexico, that the country has slipped into recession, that British Columbians had better prepare for an economic crunch. Workers in the natural resource industries are worried about losing their jobs and their employers are wondering how much real estate they will have to turn over to a bunch of Native people they don't like very much and trust even less. It's an almost inhuman (and definitely unCanadian) sentiment, but I swear I've sensed people wishing that winter would arrive early this year, in order to freeze all the threatening disruption in their lives to a standstill.

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How can such a tiny minority command so much attention in Canada. Native peoples comprise a scant 4 percent of the total population. They are scattered fairly evenly across the country, averaging no more than 7 percent of the population in any one province. Only in the Northwest Territories do Natives have an ethnic majority, and it is slipping. [See forthcoming newsletter] Even though there are hundreds of bands and reserves in B.C., many of them entail only a few hundred people, sometimes less!

I won't pretend to have a solid grasp of all the legal and political arguments the Indians have in their favor. I don't believe white Canadians are, on the whole, more empathetic or inclined to justice than any other dominant society in the industrialized countries of the West. One thing stands out, in my view, as a partial explanation for the current rigor and unyielding persistence of the Native Canadians' pursuit of justice: they seem to know what they are supposed to do.

Indian spiritual teaching holds that the Creator gave certain territories to Native peoples for their use and stewardship. Do the right thing, and the land will last forever. They are supposed to share it, but they are not supposed to give it up. When the last of the constitutional conferences on Native self-government ended in failure, one of the Indian delegates asked his compatriots the question, "What do we do now?" His own answer: "Use their legal system to test their law." They stood up as a group, defiant in the face of defeat, while the provincial premiers who had argued against the entrenchment of Native rights to self-government remained seated, some covering their mouths with curled fingers, as if they knew they had done something not quite right.

The Indians believe their elders--the ones still alive and others long dead--are watching their every move and decision. Strange as it may sound, federal bureaucrats and provincial governments are behaving of late as if someone or something is watching them too. Their constituents, certainly--that goes without saying, but there is some kind of internal surveillance at work here. Larry Krotz narrows the field of possibilities to a state of bad conscience:

I think there is at the back of the mind of every North American of European ancestry a niggling discomfort, a guilt, a perplexity, a curiosity about the people who were here first, before our forebears arrived and took over everything.

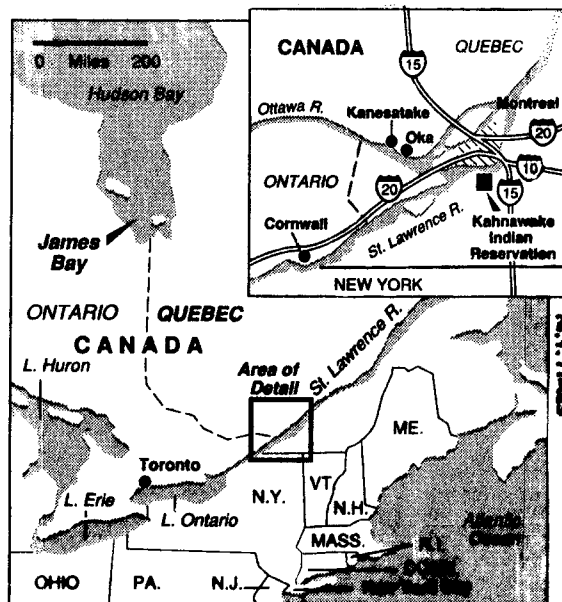
When Elijah Harper said last summer, "I cannot fathom the mentality that exists in this country, that might is right," he hit a raw nerve in the Canadian psyche. Instead of blaming an Indian for killing Meech Lake, they turned their thumbs down on Newfoundland.

I think I'm supposed to stop here.

Cheers,

*Stephen Maly*

Received in Hanover 11/9/90

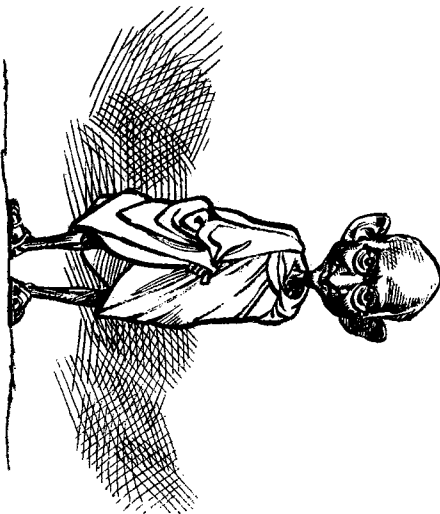




## A World History of Native Indian Land Claims

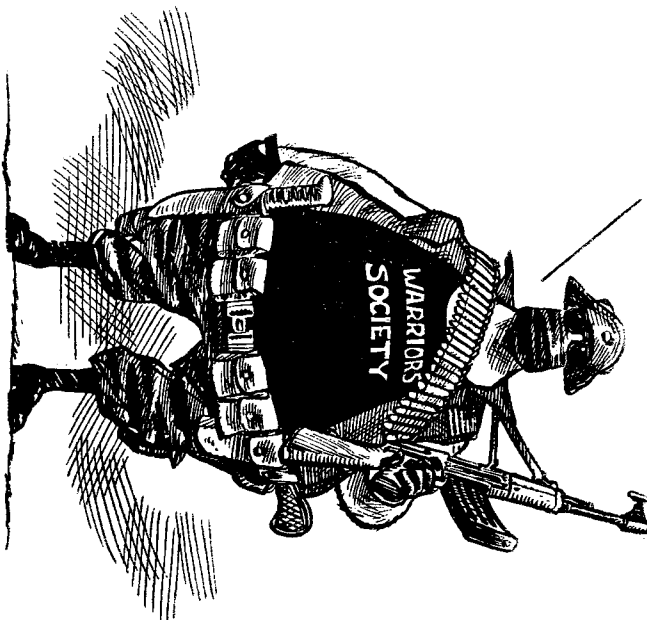
240104  
WACORP, SW

Peace.



New Delhi~1947

☆!!!\*@!☆\*!!!



Oka~1990

CONTRAST THIS VIEW WITH A STATEMENT BY A UNIVERSITY PROFESSOR FROM SASKATCHEWAN:  
"Indians have a capacity for passive resistance that makes M. Gandhi look like an amateur."