From Oka to Caledonia:
Assessing the Learning Curve in Intergovernmental Cooperation

By: Kathy L. Brock
School of Policy Studies
Queen's Univrsity,
Kingston, ON K7L 3N6

Kathy.Brock@queensu.ca

March 2010 Draft

A paper prepared for presentation at the Canadian Political Science Association Meetings,
Concordia University, Montreal Quebec, June 1-3, 2010
(words 14,937)

Introduction

The 1990 Oka crisis involving the Mohawk First Nation of Kanesatake and Kahnawake brought the actions of the Canadian state under intense scrutiny both domestically and internationally. Local authorities were decried as insensitive to Aboriginal traditions and interests. The Quebec police force was faulted for heavy-handed, ill-conceived and poorly executed operations. The Quebec government was criticized for internal divisions and for inviting the Canadian armed forces in to manage the dispute. Initially praised as stoic and diplomatic in its intervention, the

Canadian army was cited as using psychological bully tactics and operating independently of civilian oversight as the conflict wore on. The Canadian federal government was blamed for not acting and achieving a fair settlement of the outstanding issues sooner and for not defending First Nation interests in good faith. In the aftermath, both the federal and Quebec governments were disparaged for excessive expenditures and allowing tensions to escalate with the Mohawk First Nation which could only fester into the future.

An important dimension of the longer term impact of the Oka crisis on the relationship between First Nations and the Canadian state involves an examination of how well the federal and provincial governments interacted with each other as well as with the First Nations authorities in resolving a dispute over lands. How did the three authorities interact to control rogue actors or to mitigate the effects on other citizens not directly party to the dispute? Did the governments operate within their jurisdictional authority and in good faith? The criticisms listed above indicate that they were remiss in these regards. If the criticisms have merit, then it is only logical to ask: what was learned from Oka? Did Oka yield important lessons for improving relations or settling disputes between First Nations and the Canadian state?

To answer these questions and to understand the implications of the Oka for the operation of the Canadian federal system, it is useful to examine the confrontation at Oka in relation to a similar confrontation which occurred when disputed lands in Caledonia were occupied by members of the Six Nations Haudensaunee 16 years later in 2006. Were lessons learned from Oka and in the intervening years or were they repeated at Caledonia? Were matters handled in a similar or a better way? This paper will compare the state of intergovernmental relations at Oka and Caledonia to assess the learning curve of the authorities over almost two decades. How well is the Canadian federal state adapting to changing social and economic realities as represented by the two conflicts? Contrary to much prevailing opinion, the paper argues that some significant learning has taken place reflecting the resilience and adaptability of federal political institutions and actors but that certain important lessons have been voiced but not heeded resulting in an unsettling disquiet in state-Aboriginal relations. To begin this assessment, the paper turns to a discussion of the criterion for evaluating the adaptability and resilience of the Canadian federal state.

A Test of the Federal State

For a federal state to be effective, it must adapt to changing social and economic realities while continuing to bind its citizens into a whole community. As Ron Watts observes, "It is in the interplay of the social foundations, the written constitutions and the actual practices and activities of governments that an understanding of the nature and effectiveness of federal political systems is to be found (1999, 16). Understanding the social forces and dynamics operating in a political system will only yield insight into key problems or structural realities facing political decision-makers. Going beyond that step to understand and evaluate the reaction of politicians or government officials to social tensions or problems within the system, is necessary for understanding the principles and objectives laid down for society in the constitution. Together these measures yield a picture of how well the system is functioning. So for example, in the case of Oka and Caledonia, it is not sufficient to examine the causes of the occupations and whether or not the incidents were resolved peacefully, it is necessary to go the extra step of evaluating the reaction of the political actors and institutions to the situations and whether or not they exacerbated or allayed the underlying tensions in the longer term.

Federal systems are not intended to bridge differences among citizens in a homogenizing way or even to eliminate those differences. Indeed, Watts reminds us that federal systems both are chosen and will function to "preserve regional identities within united rule" (1999, 110-111). Political institutions are designed to channel and influence the articulation of diversity and unity. In a well-functioning federal system, the peaceful articulation and accommodation of differences within existing structures serving all of society is critical. Thus, achieving and maintaining a flexible balance between diversity (federalism, multiple communities) and unity (the political whole, a binding community) is fundamental to this exercise. Just as factions in the Madisonian sense should not be suppressed or denied, neither should the whole be sacrificed to a part. Either imperils the system.

While this tolerance of difference applies to the national and subnational levels of government, it also applies within the units of the federation. Diversity is not just intended among provinces or states in a federation but also within those federations and states. The genius of federalism lies in its ability to foster differences within the units without enabling those differences to combine in a monolithic whole that threatens the existence of the federation. Instead, allegiances among citizens are divided not only between the national and subnational governments but also within the subnational units among communities (Vernon).

The challenge of the federation, then, is to reflect and recognize differences that exist within the citizenry rather than negating or suppressing them. Diversity within the units helps bind the federation together by acting as a countervailing force to differences that exist among the subnational units. So for example, in the case of Canada, the aspirations of Quebec to create an independent nation are offset by the aspirations of Aboriginal peoples for their own nationhood as well as the ties of citizens and communities within Quebec to other provinces and to the national government. To attempt to suppress these layers of differences would not only prove futile, it would have deleterious effects on the whole and parts. As Ronald Watts explains:

> Where diversity is deeprooted, the effort simply to impose political unity has rarely succeeded, and indeed has often instead proved counter-productive creating dissension. It is clear that more regional autonomy may contribute to the accommodation of diversity, but by the institutional encouragement of common interests that provide the glue to hold the federation together (Ibid., 16-17).

A well-functioning federation then will respond to and reflect deep-rooted differences but will also promote common allegiances – a form of deep federalism (Leo & Enns 2009). These shared allegiances will foster common norms and expectations. Political institutions must reflect these arrangements and allegiances. So, self-rule for units as well as shared rule through accepted common institutional frameworks that transcend the units are both essential to the effective and peaceful combination of unity and diversity.

From these ruminations on an effective and well-functioning federal system, a test may be derived. The three components of the test are:

1. How well and accurately do the federal political institutions reflect the social and political balance of forces within the system?
2. To what extent do these institutions channel the influence and articulation of unity and diversity into peaceful and productive means that benefit both the constituent parts as well as the whole?
3. Is the appropriate balance in combining unity (shared rule) and diversity (self-rule of units) achieved?

Ultimately, a well-functioning and effective federal political system will be one that secures a peaceful accommodation of differences without experiencing undue political paralysis or atrophy. This understanding of how well a system is functioning must be viewed in a dynamic and ever changing context with institutional change influencing society and social forces influencing federal institutions in turn. In sum, a healthy federal system engages citizens in a myriad of ways that reflect the differences among them without diminishing those differences and, at the same time, creates a whole to which all can belong.

How did Canada fare under this test in Oka and Caledonia? Was deep federalism achieved with the acceptance of differences within one whole? Were those differences reflected in the institutional arrangements? Did the parts as well as the whole benefit in a way that was appropriate and healthy? We turn to Oka and Caledonia now.

Background to the Conflicts

The conflicts at Oka and Caledonia were distinct confrontations but bore some key similarities that merit a comparison. Before describing each confrontation, it is useful to briefly highlight some of these points of comparison.

Both Oka and Caledonia escalated into confrontations between the Canadian state and First Nations when members of the two community decided to occupy disputed lands which were slated for development. In the case of Oka, lands which had been granted to the Sulpician Order of Monks in trust for the Mohawk community by the French Crown in 1717 had been reduced from 33,000 acres to 11,000 when they were transferred to the federal Department of Indian Affairs in 1945 and despite Mohawk claims to the entire tract. In the late 1980s, the municipality of Oka sought to expand a golf course onto part of the alienated lands which had been developed into a stand of pine trees sheltering sacred resting grounds. While the Mohawk community of Kanesatake was initially successful in obtaining a moratorium on development of the lands until the claim had been resolved, the moratorium expired on 11 March 1990 before the claim had been legally established. To prevent the destruction of the trees and violation of the grounds in the event of development, members of the Mohawk community erected a barrier on the small road leading into "The Pines." Similarly, in the case of Caledonia, the British Crown had granted 385,000 hectares (950,000 acres) of land to the Six Nations Mohawks in 1784 for their loyalty during the American revolution and this tract of land had been reduced to 111,000 hectares in 1792, with more portions being alienated over the years to reduce the tract to 48,000 acres despite Mohawk claims to the whole tract. In 1992, Henco Industries acquired land from Caledonia for a housing development and, in 1995 the Six Nations Confederacy filed a lawsuit against the crown asserting its claim to a larger tract of land which included the Henco lands. By 2005, the land claim had not been established and Henco signalled its intent to proceed with the proposed development despite written protests by the Six Nations Chief. On February 28th, a small group of members from the Six Nations occupied the Henco site to prevent construction.

Both occupations became barricaded stand-offs after the provincial police forces attempted unsuccessful raids to remove the occupants from the disputed lands. Both disputes involved protracted negotiations between the federal and provincial governments and Mohawk authorities, while the Oka confrontation last 78 days and the Caledonia barricades were removed after three months although the occupation has continued into 2010. Both occupations caused considerable friction with local residents. Both conflicts have fostered lingering tensions between the Mohawk and local communities and between the Mohawks and federal and provincial

governments. But both events are distinct stories which need to be recounted briefly here so that the changes between Oka and Caledonia maybe unveiled.

The Occupation at Oka

The three nearby Mohawk communities of Kanesatake, Kahnawake and Akwesasne had been troubled throughout the 1970s and 1980s by internal tensions and divided governance. During this period, cigarette smuggling (buttlegging) gaming and other illegal activities had divided the community, giving rise to the Warrior society (Winegard, 2008, 49). Trained by Vietnam veterans, the Warriors were endorsed by the traditional Longhouse members in Kahnawake in the early 1970s and later by members of the Longhouses at Kanesatake and Akwesasne. However, as gaming activities took hold in the communities, the Warriors began to be seen as fronts for the "silk shirts" profiting from illegal activities, losing credibility with members of the general community and engaging in skirmishes with the local Mohawk police (Ibid., 50; cf. York and Pindera 1991, 128-140). By the late 1980s, violence and internal tensions at Akwesasne necessitated intervention by the New York state police, the Ontario Provincial Police (OPP) and the Royal Canadian Mounted Police (RCMP). As the situation at Oka was developing, the situation at Akwesasne was deteriorating. After a US National Guard helicopter was fired at by AK47s, the three governing councils of Akwesasne requested the New York Division of Military and Naval Affairs and the Canadian government intervene. On 28 April, Prime Minister Brian Mulroney told Minister of Defence Bill McKnight to prepare plans for the military support of the SQ, OPP and RCMP in the event the three police forces could not handle the situation. Hundreds of officers from the SQ, OPP, RCMP and NY state police were despatched to the reserve between 28 April and May 1 when open gun fighting broke out. After a RCMP patrol boat was fired upon, Solicitor General of Canada Pierre Cadieux asked the Minister of National Defence to assist the RCMP in Akwesasne under the Provision of Armed Assistance in the National Defence Act, which limits the assistance to a non-combat role (Winegard, 2008, 78,86). The State of New York refused similar assistance but began negotiations with the Mohawks (Hornung, 1991, 285-287).

Against this background, members of the Oka Mohawks consulted with the Akwesasne Warriors before erecting the small barricade to The Pines on 10-11 March 1990. By comparison with Akwesasne, the Oka occupation was peaceful with the Quebec Native Affairs Minister John Ciaccia attempting to negotiate a resolution to the dispute over lands and with the federal government agreeing to buy the lands for the Mohawks. However, two developments shattered this quietude. On 2 May, the Kanesatake Mohawks at the barricades requested assistance from the Akwesasne Warriors bringing their numbers at the barricades up to approximately 100 n response to a possible SQ raid. The SQ called off the raid but continued to monitor the barricades. On 29 June Quebec Superior Court Judge Anthime Bergeron granted the municipality of Oka an injunction against the Mohawks, requiring them to remove the barricades, not to impede access to the lands, and to pay court costs. Despite earnest entreaties by Minister Ciaccia who believed that the SQ were no match for the Warriors, the Mayor repeated his earlier request to have the SQ remove the barricade (Ciaccia, 2000, 53-54, 58, 59-61; Winegard 104). On 11 July, the SQ warned the Mohawks to leave and then raided the barricades. Quebec Coroner Guy Gilbert later reported that the "Mohawks routed the police," and Corporal Marcel Lemay was shot by the Mohawks during the raid and died subsequently (Winegard, 2008, 108). The SQ retreated, leaving police vehicles and heavy equipment to the empowered Mohawks. As a gesture of support, the Kahnawake Mohawks barricaded the Mercier

bridge leading into Montreal and other local highways. In response, the SQ sealed off Kanesatake and Kahnawake using armed forces equipment. A stand-off ensued with tensions heightened between Aboriginal and non-Aboriginal citizens in Quebec by the death of the Meech Lake Accord, a constitutional amendment designed to bring Quebec into the Canadian constitutional fold as a full signatory, due to a Cree Member of the Manitoba Legislature, Elijah Harper, preventing its passage in that forum in late June (Miller 2000, 374-379; Winegard 2008, 113-115).

Between 12 July and 26 September 1990 when the last protestors left Oka, negotiations between the Quebec government, Ottawa, and the Mohawk authorities were conducted but not without intermittent violence breaking out, particularly at the points where the Kahnawake Mohawk barriers were impeding access by local residents to Montreal and in Oka. Although Ciaccia began negotiations with the Oka Mohawks the day after the raid, Ottawa entered negotiations later in July (the 26th). The Mohawk position centred around settling the historic land claims of the Mohawks, federal acquisition of the disputed Oka lands, amnesty for those at the Mercier Bridge and Oka, and, as the Warriors became more involved in negotiations, recognition of Mohawk sovereignty in the traditional lands including the portion in the US (Ciaccia 2000, Winegard 2008, Horning 1991, York and Pindera 1991). While Ciaccia was very flexible in negotiations, amnesty was a deal breaker for the Quebec Cabinet, especially Minister of Public Security Sam Elkas and the SQ, while sovereignty was a no-go for Minister of Indian Affairs Thomas Siddon and the federal government (Ciaccia 2000; Hornung 1991).

The Oka occupation was helped to a close by two important developments announced on 8 August by Prime Minister Mulroney. He appointed Former Quebec Superior Court Justice Alan Gold as mediator to the dispute and announced that 4,000 troops were standing by if needed and requested by Quebec. By August 12, Gold had overseen an agreement on the pre-conditions for negotiations signed behind the barricades by Federal Indian Affairs Minister Siddon and Quebec Native Affairs Minister Ciaccia with the Mohawk negotiators including Ellen Gabriel and some of the Warriors. Negotiations would continue in various forms to the end of the dispute.

Second, the army was deployed. On 6 August, the Province of Quebec invoked the Aid to the Civil Power provision in Part XI of the National Defence Act to "repress the troubles which subsist at this moment in Oka and Kahnawake, to secure the protection of works, public and private, which are essential to the general welfare and to the security of the population of Quebec" (as quoted in Winegard 2008, 123). On 10 August, Chief of the Defence Staff de Chastelain informed Quebec Premier Robert Bourassa of the Canadian Forces plan if they intervened, and noted that they would not be acting under political authority but defence command as specified in the Act. The Chief of Defence Staff would decide the weight and scope of the intervention (Winegard 2008, 81). On 14 August, the armed forces began to replace the SQ at the barricades. The armed forces treated the Mohawk Warriors with respect and as military men but used psychological tactics from the outset. For example, when replacing the SQ at the barricades, the armed forces ensured a sufficiently large show of force to intimidate the Mohawks since the military as a last resort measure could not afford to fail in this mission (Ibid., 139-40). As the conflict wore to an end, psychological intimidation increased and relations with the Warriors became more tense. On 28 August, the Prime Minister announced that the "Canadian Forces would do their duty" and remove the barricades (Ibid., 147). By the end of August, all the barricades around the Mercier bridge and Kahnawake had been removed. In mid-September, the Canadian Forces assumed control of negotiations and rejected Mohawk calls for

amnesty and recognition of their sovereignty and nationhood. On 26 September, the remaining Mohawks, worn down, left the treatment centre at Oka where they had been centred and were taken into military custody. Although the Canadian Forces were gone by November, the province of Quebec refused to revoke the Aid to the Civil Power until 30 May 1991. In contrast, the Canadian Armed Forces ended their operations in Akwesasne on 5 December 1990.

The Occupation at Caledonia

The Six Nations maintain that the original 950,000 Haldimand tract of land granted to them is properly theirs, having been improperly reduced to the 48,000 acre reserve that they presently occupy. In 1983 and 1991, representatives from the Six Nations appeared before the House of Commons Standing Committee on Aboriginal Affairs to assert their claim and note that their settlement price would be approximately $82 billion dollars. The Six Nations filed 29 land claims under the federal Specific Claims policy. Although the claims were not officially rejected, they were closed by Indian and Northern Affairs Canada in January 1995 (Six Nations Council 2008). That same year, the Six Nations Council sued the Canadian and Ontario governments for damages arising out of the claim that the original grant of lands had been improperly surrendered. Although only four of the 29 claims had been validated by the federal government, the law suit was suspended in 2004 in favour of negotiations with the federal government.

In this atmosphere of unsatisfactory negotiations, the Caledonia occupation occurred. Despite a letter from Chief David General of the Six Nations Council advising them of the dispute over the lands, Henco Industries announced their intention to proceed with development of the lands in 2005 and subsequently began construction of the ill-fated Douglas Creek Estates (DCE). On 28 February, a small group of people linked with the Six Nations occupied the DCE to halt construction. On 10 March, Henco obtained an injunction from the Ontario Superior Court ordering the occupiers off the DCE but the protestors refused to leave. The OPP raid to enforce the injunction on 20 April caused an estimated 1,000 Mohawks and supporters to rush onto the DCE, repel the OPP and erect barricades on the adjacent roads and highways (Blatchford, 13 November 2009, 12). The following day, the federal and Ontario governments entered into negotiations with the Six Nations Band Council and the Haudenosaunee Confederacy Chiefs over the lands. The federal government appointed the Honourable Barbara McDougall, a former Cabinet Minister, as its representative in the negotiations, to be assisted by Ronald Doering as the Senior Negotiator. Ontario appointed former federal Indian Affairs Minister Jane Stewart as its representative and former Ontario Premier David Peterson to help resolve the standoff.

The occupation and blockades caused tensions within the local community. Although the DCE occupiers partially removed a blockade in May to allow traffic flow in one lane of the main highway, frustrated residents in Caledonia set up their own blockade to impede Six Nations members and sympathizers. Frustrated by police inactivity and unwillingness to take action against illegal and harassing actions by the occupiers, residents of Caledonia, much like the residents of Chateauguay by the Mercier bridge during the Oka confrontation, engaged in exchanges with the occupiers. Tensions escalated, culminating in a physical and verbal confrontation on 22 May 2006. A transformer was vandalized blacking out much of Caledonia for two days (INAC Chronology 2009). In other incidents, occupiers were seen to push a car off an overpass and burned a wooden bridge to the ground while using threats to prevent firefighters from intervening (Blatchford 14 November 2009, A2; Blatchford 27 November 2009, A10). Occupiers vandalized nearby property and threatened non-Aboriginal owners. On 9 June, an

elderly couple was followed and harassed by protestors causing the man to suffer a heart attack. A tv cameraman filming the incident was assaulted (Blatchford 14 November 2009, A2). By 12 June, the Ontario and federal government react to the acts of violence by suspending negotiations until the barricades were removed. With the barricades down, negotiations resumed on 15 June.

Three features of the Caledonia dispute are particularly salient here. First, negotiations continue to the present. In March 2007, Indian Affairs Minister Jim Prentice announced that the federal government would provide $26. 4 million towards Ontario's costs incurred as a result of the Caledonia occupation, including the costs of the land purchase, and that the federal government would expand its negotiating mandate with the Mohawks in an effort to resolve the historical claims. In May and December of that year, the federal government made an offer of $125 million to settle four of the outstanding claims and a further $26 million as compensation for the Haudenosaunee/Six Nations lands flooded by the Welland Canal in 1829 and 1830. These offers were in part intended to allay the ongoing simmering tensions at Caledonia. The Mohawk negotiators rejected these offers with a $500 million counteroffer for the flooded lands alone (Montour 5 January 2010; INAC Chronology 2009). Second, the DCE lands remain occupied by the protestors linked with the Six Nations/Haudenosaunee. The Ontario government had bought the DCE lands on 5 June and placed them in trust for the Mohawks, allowing the occupiers to remain. On 8 August the Ontario Superior Court responded to the request of Henco Industries and the Ontario and Federal governments to dissolve the March injunction ordering the barricades to be removed and occupiers to vacate the premises by ordering all negotiations cease until the injunction had been met and the rule of law restored (Marshall 2006). This ruling was overturned by the Ontario Court of Appeal in December. The occupation continues into 2010 with sporadic outbursts of violence.

Third, the occupation has resulted in law suits against the Ontario government and OPP. Most notably, two Caledonia residents living beside the occupied lands sued the Ontario government and OPP for $7 million in damages resulting out of the decision of authorities not to enforce the law stringently during the occupation (Blatchford 31 December 2010, A4). This case was settled out of court 29 December 2009 and the couple surrendered title of their home to the Ontario government, moving out on 14 January 2010. The Ontario government had the home demolished by night fall to prevent its illegal occupation. Subsequently, a class action suit has been filed by other local residents and businesses on similar grounds (Blatchford 9 February 2010, A8; Crane, J. 2010). A case brought by a citizen against Julian Fantino, Commissioner of the OPP, for attempting to influence municipal legislators in their handling of the Caledonia dispute was taken over by the Ontario government and dismissed after the Crown withdrew the charge citing a lack of evidence (Appelby, 4 February 2010, A10). Citizens affected by the blockade have organized and struck back, not only through the media, traditional and social, but also through the courts.

The Caledonia occupation is not over. Negotiations over land claims continue. Tensions continue to simmer, boiling over periodically. In Oka, the occupation is over. Negotiations over land claims continue. Tensions within the communities of Akwesasne, Kahnawake and Kanesatake continue to simmer. Was anything learned between Oka and Caledonia? In their review of the Mulroney years, Gina Cosentino and Paul Chartrand argue that "While the Oka crisis was certainly a dark period in Canada's relationship with Aboriginal peoples, it also represented a turning point. Just after the crisis, in September 1990, Mulroney announced a new federal Aboriginal agenda" (Cosentino and Chartrand 2007, 299). The new agenda included expediting land claims, reforming relations between Aboriginal peoples and the federal

government, improving social and economic conditions for Aboriginal peoples and accommodating self-government claims within the federation. Certainly, the announcement and creation of the Royal Commission on Aboriginal Peoples advanced that promise and demonstrating the responsiveness of Canadian federal institutions but were the effects felt beyond that and past the Mulroney administration? Did Caledonia reflect that new spirit?

III Assessing the Learning

One of the frequently cited virtues of federalism is that experimentation may occur within the subunits of the federation as the governments respond to similar social and economic problems in their own way. Best practices may then be developed and imported by other units in the federation resulting in a superior policy mix. For its part, the federal government can learn from its mistakes and improve its practices when similar problems arise, transferring its knowledge across jurisdictions. Did the federal system adapt and change in response to Oka? Between Oka and Caledonia there were hundreds of confrontations over land and treaty rights, occupations, and barricades by First Nations across the country, with more serious confrontations occurring at Gustafsen Lake in BC, Ipperwash Beach in western Ontario, the fisheries in Nova Scotia, Red Hill Valley in Hamilton Ontario and so on. Indeed, between 1995 and 2007 the OPP alone reported over 100 "Aboriginal critical incidents" (Coyle, 2007-2008, 3). So not only have our federal and provincial governments had a chance to learn from each other, they have amassed considerable experience to guide them within their own jurisdictions.

An assessment of federal and provincial actions in cases like Oka and Caledonia must begin with a caveat. Occupations by First Nations are necessarily complicated affairs particularly when they involve land or treaty claims. First Nations governance may be contested by the band council elected and recognised under the *Indian Act* and by traditional leaders chosen under the practices of the community. Under the terms of the *Constitution Act, 1867*, the provincial government is responsible for public security and policing (92.15) and authority over most land transactions (91.13). Provincial laws of general application may include Indians and Indian reserves according to s. 88 of the *Indian Act*. However, the federal government is implicated in land transfers and disputes given its responsibility under section 91.24 of the constitution for "Indians and lands reserved for Indians." The federal government has established processes for negotiating comprehensive land claims (where no treaty exists) and specific claims where a grievance under an existing treaty or land claim exists. Thus, room for jurisdictional confusion and evasion of responsibility exists. With this in mind, we now compare the experiences at Oka and Caledonia.

In Oka, the federal government was severely criticised particularly with respect to its handling of treaty and land claims and associated rights. The historic land claims and grievances of the Mohawks of Akwesasne, Kahnawake, and Kanasetake have not been resolved, giving rise to unsettled feeling in the communities. Traditionalists, along with the Warriors, maintain that the three communities form a sovereign nation and that their territory extends across the three communities in Quebec and into Ontario and the United States. The Mohawks have a long history of resistance to Canadian authority, including the resistances "in 1877 at Oka, 1899 at Akwesasne, 1924 and 1959 at Six Nations, 1973 at Kahnawake, and 1990 at Oka and Kahnawake" (York and Pindera 1991, 408; Valaskakis 205, 36-37). Although the Mohawks in Quebec and Ontario have a credible claim under international law to be regarded as a people, "the governments of Canada and Quebec have flatly refused the concept of Mohawk sovereignty (Ibid., 410). Speaking to the Canadian House of Commons in the fall of 1990, "Prime Minister

Brian Mulroney insisted that Indian self-government 'does not and cannot ever mean sovereign independence within Canadian territory'" (York and Pindera 1991, 410). As a result, the issue of sovereignty became an obstacle in the negotiations at Oka once the Warriors intervened. At Caledonia, the issue remained unsettled between the two levels of government. While each side is more acquainted with the arguments of the other than they were at Oka, neither is willing to concede on this issue. The stand-off on sovereignty continues.

The immediate land claim and grievance at Oka was longstanding. Mohawks had disputed the Sulpicians' ownership of the lands, the land transfer to the federal government in 1945, the construction of the golf course, the extension of municipal recreational facilities on the lands, and the housing developments built on their traditional lands. As Pindera and York observe, "the government and the courts had consistently denied the Mohawk claim for 150 years" (1991, 45). In 1989, the federal government had tabled a proposal with the Mohawks to unify the Kanesatake land base by buying lands contiguous to the ones already owned by the federal government. However, the federal proposal stipulated that the government would only acquire the golf course lands including the Pines and the graveyard, if the Mohawks agreed to recognize the municipal government's authority over the crown-owned lands within the town. The Mohawks rejected the proposal countering that they have full jurisdiction over their lands (York and Pindera 1991, 48-50). In early May 1990, Quebec Native Affairs Minister, John Ciaccia, negotiated an agreement with the mayor of Oka that the municipality would sell the proposed golf course extension and housing development lands to the federal government for $2 million, thus offering a means to settle the core dispute. However, federal Indian Affairs Minister Tom Siddon responded with a "noui" delaying a commitment. By the next day. the mayor had recanted and by 14 May the town council had passed a resolution refusing to cede the lands to the federal government. In Ciaccia's words, "As a result of the municipality's decision and the federal government's inaction, a simple solution to the crisis was abandoned" (Ciaccia 2000, 44). Federal inaction and inability to close deals on land claims historically and in the current crisis provided a basis for the dispute and prolongued it. The history of negotiations bred a distrust that coloured negotiations behind the Oka barricades.

By Caledonia, it was not clear that any learning had taken effect at first glance. Despite the Mulroney government's promise to expedite land claims negotiations and encouragement by the Royal Commission on Aboriginal peoples to settle outstanding treaty and land claims in a more expeditious and fair manner and despite some gains during the Mulroney years (Miller 2000, 367), the record on treaty and land claims remained poor. As of September 2006, First Nations had filed 1,337 Specific Claims and only 275 had been settled, leaving 861 still unresolved (Donovan 2007, 1). While a process has been developed for specific claims, the fact that the 29 Haudenosaunee claims were still outstanding in 2006 illuminates deficiencies in the approach. In April 2006, the Minister of Indian Affairs stated that the Caledonia dispute was "not a land claims matter" and had "nothing to do with the federal government" (Darling, n.d., 3). Federal reluctance to intervene in stand-offs like Oka and Caledonia has persisted.

Still, three things did change with respect to the treaty and land claims between the two confrontations. First, despite the initial disavowals of responsibility by the federal government in both cases, the federal and provincial government responded more quickly in Caledonia than Oka. Within a month of the blockade at Caledonia, the federal government had undertaken a fact-finding assessment at Caledonia. In contrast to Oka where the federal government declined to engage publicly and directly in negotiations between 10 March and 8 August and only engaged fully after the army had been called in, the federal government was an active party to

negotiations within two months of the barricades going up at Caledonia. Second, in Oka, the federal Minister was reluctant to go behind the barricades or negotiate while the barricades were in place (Austin and Boyd 1993, 32-33; Hornung 1991, 219) repeating demands the barricades be removed even when it was detrimental to provincial talks with the Mohawks after the raid in July (Ciaccia 2000, 122). The Minister only reluctantly went behind the barricades to sign the pre-agreement on negotiations by the mediator, Alan Gold. In contrast, in Caledonia the Minister and federal representatives engaged in negotiations before the barricades came down. Third, by August 2006 Justice Marshall was able to observe of the situation at Caledonia that:

> The court is acutely aware of the frustration the native people have in regards to their claims over the lands that was granted to them in the "*Haldimand Grant*" There is no question, however, that the governments are committed to settling the land claims. Now both governments have appointed negotiators. These negotiations are ongoing (Marshall 2006, 7).

Federal and provincial negotiating teams were announced by 3May and appeared to be committed to resolving the crisis. In contrast, at Oka the federal minister of Indian Affairs seemed "resistant to new ways to bring about resolution," relied heavily on his provincial counterpart, and was slow to respond to issues including the proposal of the Quebec Human Rights Commission for an independent commission to assess the Mohawk claims (Austin and Boyd 1993, 32-3).

The disputed lands were also handled differently. As mentioned above, the federal government was slow to acquire the lands slated for development at Oka, only acquiring them after they had engaged in negotiations. Indeed, federal inaction and comments aggravated the situation at Oka. Ciaccia observed that a week after the SQ raid, "Siddon was still refusing to offer the Mohawks a clear-cut commitment on the golf course lands. He was prepared to buy them, he said 'if they became available.' This was a destructive statement since it was the key to a settlement" (Ciaccia 2000, 119). Despite his words, Siddon's officials were working to acquire the lands after 11 July. At the end of July, the federal government went to significant lengths to acquire the lands, paying for the developer to be flown from France to Montreal to complete the transaction. The town of Oka acquired the lands west of the Pines. The federal government bought the housing development lands from the developer and offered Oka $1.34 million for the other lands including the lands it had just bought for $70,000. Oka refused to sell until the barricades went down. The federal government made another offer in August and paid Oka $3.84 million for the lands plus $1 for the Mohawk graveyard (York and Pindera 1991, 218-219). As Ciaccia observed in July, expropriation would have been cheaper and quicker. Federal ambivalence proved costly. Provincial inaction with respect to acquiring the lands was equally detrimental to positive negotiations.

In contrast, at Caledonia, the Ontario government had acquired the disputed development lands by 5 June and placed them in trust for the Mohawks contingent upon the outcome of negotiations, prompting Justice Marshall to observe in August that "Each of these steps has been made with a sincere interest in resolving the matter peacefully (Marshall 2006, 16). The Ontario move allayed the developer's concerns and thus helped calm the situation but it also offered the Mohawks an incentive, albeit insufficient, to settle the claim without further violence. In May 2007, the federal government offered to compensate the Ontario government for the lands as well as partial policing costs (INAC News Release 29/03/2007, 1). Thus, unlike in Oka, the land

was acquired quickly and placed in trust, thus allowing the protestors to remain on the land but with the knowledge that it was secured for them and no development would occur.

The interaction of the federal and provincial governments was significantly different during the two occupations, affecting the outcomes. As the words of Justice Marshall above indicated, at Caledonia the federal government responded relatively quickly, engaging a negotiator and recognizing the matter as a land claims issue and the federal and provincial government engaged in talks with sincerity. In contrast, at Oka

> Despite angry calls from the Mohawks for federal Indian Affairs Minister Tom Siddon to play a role in the talks, Siddon refused all overtures. He said the crisis at Kanesatake and Kahnawake was a police matter that fell under Quebec's jurisdiction. Not until the barricades were down would he deal with the land issue that had sparked the confrontation (York and Pindera 1991, 200).

The Quebec government responded by continuing to call on the federal government to become involved. In addition to quibbling over jurisdiction (Kalant 2004, 170-1), the federal government engaged in bickering with the Quebec government that lowered Mohawk confidence in a positive outcome. For example, on 19 July Siddon and Solicitor General Pierre Cadieux praised Ciaccia, faulted the Quebec officials for rejecting their deal in the Spring to purchase the disputed lands and refused to negotiate "where firearms are used to provoke negotiations" (Hornung 1991, 219). In response, Quebec Minister of Municipal Affairs said Siddon was "Deaf, dumb and blind," "ill-informed" and "disconnected from reality" (Hornung 1991, 219). Hornung recorded that "As the Mohawks watched the provincial and federal governments trade insults, they closed ranks and hardened their resolve to resist any short term deal, believing neither Ottawa nor Quebec." He quotes Mohawk Denise Tolley as asking "They couldn't trust each other, so how could we trust them?" (Hornung 1991, 219). Caledonia was not plagued by the same degree of intergovernmental hostility although Premier McGuinty did insist that the key to resolving the dispute lay in the hands of the federal government (CBC News 28/02/2007, 1). However, Oka was played out against the failure of a significant intergovernmental agreement, the Meech Lake Accord, while Caledonia was not.

The federal and provincial stances with respect to the First Nations governments were also different in a way that was critical to the outcomes. At Oka, the federal government would only engage in negotiations with the band council elected under the Indian Act and its chosen representatives. The Quebec Cabinet and strategic committee also assumed this posture. Only Quebec Native Affairs Minister John Ciaccia, who had studied Mohawk traditions and culture, believed the traditional Longhouse leaders and warriors had to be included in negotiations if they were to succeed and brought them into the talks even against the desires of his colleagues (York and Pindera 1991, 67-8). When asked if the federal government's refusal to negotiate with the Longhouses and Warriors impeded a settlement, Mohawk leader Ellen Gabriel replied that "It hindered everything" (Winegard 2008, 103). In contrast, Caledonia was "the first time since 1924, the federal government entered into discussions with both the elected Band Council and Confederacy Chiefs" (INAC Chronology 2009, 1). As federal negotiator Barbara McDougall observed, "This is a historic opportunity for the Six Nations and the federal government and the province" (CBC News 28/2/2007, 1). When the Six Nations Band Council decided to let the Haudensaunee Six Nations assume authority over negotiations, the federal and provincial governments continued in the talks. Unlike at Oka where the federal government was accused of attempting to undercut the traditional government and Warriors in favour of the elected band

council as part of their strategy (York and Pindera 1991, 272; Hornung 1991m 227, 248), at Caledonia they recognised the responsibility and right of the community to settle its own internal governance problems. This significant policy shift is a concrete example of the federal government evolving to respond to changing social circumstances and adapting to First Nations concerns over their affairs.

Oka was characterised by intransigence and lack of willingness to compromise. When one side would indicate flexibility the other side would exploit that as weakness., this impeding advancement on the immediate issue and longer term claims. York and Pindera comment that "Few people in the Quebec Cabinet supported any negotiated deal with the Mohawks – which gave Ciaccia little room to manoeuvre" (York and Pindera 1991, 200). Even after the barricades at the Mercier bridge were dismantled in September, "Quebec Premier Robert Bourassa immediately rejected the peace proposal. The province had little interest in negotiations at this point with the bridge open to traffic (York and Pindera 1991, 373; cf. Ciaccia 2000, 315). Similarly, the inclusion of "staunch traditionalists from Kahnawake and Akwesasne" on the negotiating team "alarmed some people in Kanesatake," since they were seen as "too militant and uncompromising," particularly on the issue of nationhood (York and Pindera 1991, 201). Although the traditionalists eventually began to moderate demands for full complete amnesty for the Mohawks, the presence of international observers and recognition of sovereignty over the entire territory including in the US (see Ciaccia 2000, 287-289), they reverted to their original stance when the Premier announced the end of talks on 27 August and told the army to dismantle the barricades given "The Warriors' intransigence and bad faith" (Ciaccia 2000, 286). And although the federal government had made some progress after assuming control of negotiations when the army was called in (Hornung 1991, 234, 227), it backtracked on 6 September when talks were nearing closure and Chief of Staff to the Prime Minster, Norman Spector stated "there will be no negotiations as long as the question of the Oka Warriors is not settled. An offer has been made to the Warriors to surrender to the army. After their surrender, the SQ will take over" (Ciaccia 2000, 327). Ciaccia's reaction was that "The federal government was out of touch with reality" (ibid; cf. Austin and Boyd 1993, 32-3). Apprehension of armed force rather than a willingness to negotiate in good faith brought about the conclusion to the conflict.

Negotiations at Caledonia have been complicated with entrenched positions but all sides were more willing to move to quell the effects of the initial occupation. The Mohawks removed some barriers to facilitate traffic flow on Highway 6, a main artery, after entering discussions with the federal and provincial representatives. In contrast to Oka where confrontations between local residents and the protestors seemed to harden stances, at Caledonia confrontations were a spur to the removal of barricades. After nasty confrontations in late May and early June 2006, the federal and provincial governments suspended negotiations until the barriers came down but, as mentioned, acquired the DCE property so that the occupiers could remain. The Mohawks removed the barriers and negotiations restarted. In February 2007, Federal Indian Affairs Minister, Jim Prentice commented that in comparison with the armed standoff at Oka, "Caledonia has been handled "in a very responsible way" He speculated that "If people are patient, we will get this resolved" (Puxley 25/2/2007, 1). After "encouraging an environment where peaceful and negotiations can take place" (Ontario, Ministry of Aboriginal Affairs 17/11/2009), Ontario Minister of Aboriginal Affairs David Ramsay observed that Ontario has "Exhausted all the tools we have" to end the dispute and "We cannot resolve outstanding land claims," That's up to the federal government" (Puxley 25/2/2007, 1). The province had moved

from being a leader in the dispute at the outset to a position of being "a devoted conciliator and peacekeeper" (Ibid, 2). All three authorities made overtures of goodwill in a tense situation.

Negotiations over the land claim at Caledonia like the Oka claim have been less productive. With Ontario on the sideline, the federal government and Haudenosaunee Six Nations have been negotiating directly. In March 2007, the federal government announced it would allow more flexibility in moving these land claims forward by expanding the grounds for negotiation. As of 28 January 2009, the federal government had repeated its offer of $26 million for the Welland Canal floodlands but offered a more detailed explanation of the calculations (Doering 2009). The $125 million for the four outstanding claims that had been validated remains rejected by the Haudenosaunee who claimed both figures were too low and countered with $500 million for the Welland Canal floodlands as well as a further eight conditions (Six Nations "Iroquois" Confederacy 2008). As Chief Joe Montour explained, "This position is that the only land rights settlement would be based on the original intent of the Haldimand Proclamation – the perpetual care and maintenance of the Six Nations people" (Montour 5/1/2010). Montour further announced that the court challenge for these claims would be re-activated, implying it could be leverage in negotiations. And he gave the Ontario notice that it was "not off the hook in any settlement with Six Nations either." The federal government viewed the Six Nations numbers as inflated (Doering 2009). The saga continues.

Oka did not just serve as a negative example for subsequent conflicts. The Prime Minister's decision to appoint a well-respected individual, Quebec Chief Justice Alan Gold, as special mediator at the same time as Premier Bourassa was calling in the army and then the trusted and respected Bernard Roy as federal negotiator, demonstrated his sensitivity to the situation and his prowess as a master negotiator (Mulroney 2007, 798-9; cf. Newman 2005, 163-4).[1] "The prime minister's office had consulted the Mohawks about Gold's appointment, and the Mohawk negotiators welcomed the move" as a sign Ottawa was assuming its responsibilities (York and Pindera 1991, 224). Gold won the trust of the Mohawk negotiators (York and Pindera 1991, 289), and was the key to the August 12 agreement on the preconditions for negotiations (York and Pindera 1991, 290-93; cf. Ciaccia 2000, 198-201). As a former labour negotiator, the Prime Minister understood the need for a demonstration of respect in action and words.

In Caledonia, this good practice of appointing neutral and respected officials was continued when the federal government appointed Former Cabinet Minister Barbara McDougall as its representative and dedicated a senior negotiator, Ronald Doering, to the process; and when Ontario appointed former Ontario Premier David Peterson as mediator and Jane Stewart, a former Minister of Indian and Northern Affairs as its representative. Murray Coolican, a former Deputy Minister of Aboriginal Affairs in Ontario and author of a highly regarded task force report for the federal government on land claims, replaced Jane Stewart. In September 2007, the federal government appointed the Honourable David Crombie, former Toronto Mayor and Cabinet Minister, as community liaison official for Canada. In each case, the governments chose individuals with an understanding of Aboriginal issues and a good reputation among First Nations. These kind of appointments instill a civility in negotiations and demonstrate respect for the First Nations—both of which go far in resolving disputes. In this way, Oka demonstrated a positive example of federal learning that was continued at Caledonia.

One particular aspect of provincial government behaviour was similar in the two conflicts. As observed above, Ontario's reaction to the Caledonia occupation was to preserve the peace and facilitate discussions with the federal government. As in the case of Quebec at Oka,

[1] Newman is much less charitable in his interpretation of the Prime Minister's understanding of the situation.

the province maintained that its primary role was public security. Like Quebec Premier Bourassa in 1990, Ontario Premier McGuinty reiterated that the onus was on Ottawa to settle the lands question. However a criticism that was levelled at McGuinty might have been applied to Bourassa with equal force: the provincial government did not apply enough pressure to Ottawa to negotiate "a peaceful and expedient resolution" to the dispute or to settle land claims (CityNews 2/5/2007). This applies equally to all of the provinces more generally with respect to land and treaty issues. There is room for federal learning here.

One error made by the Quebec government was not repeated in Ontario. Although Aboriginal Affairs Minister John Ciaccia was initially tasked with resolving the confrontation, he did not have the support or respect of his Cabinet colleagues to settle the dispute and after Premier Bourassa cancelled all official negotiations he still proceeded with talks with the Mohawk leaders in an urgent effort to find a resolution (York and Pindera 1991, 323). The tensions in Cabinet relations were evident in late August, when Ciaccia agreed to consider a Mohawk proposal for partial amnesty for the protestors, and Justice Minister Gil Rémillard, "one of Ciaccia's strongest rivals on the Cabinet crisis committee," was not. And since Ciaccia was operating on his own, despite the presence of Quebec public officials from Native Affairs and Justice, "If the premier and Cabinet crisis committee disliked any tentative agreement, they could effectively cut Ciaccia adrift without much political fallout" (York and Pindera 1991, 327). The lack of support was evident on the Cabinet strategy committee which became "truly functional" in late July, had little experience with Native people, and was predisposed to a "law and order mentality." Ciaccia felt like an "odd man out" (Ciaccia 2000, 171-2, 176). Hardliners on the committee viewed him as a "Mohawk sympathizer" and dismissed his proposals (Austin and Boyd 1993, 28-29). The SQ openly undercut his advances with the Mohawks (Ibid). Late in the crisis, Ciaccia even stated, "I felt I was under a cloud of suspicion. I was not getting my colleagues' support" (Ciaccia 2000, 341). Ciaccia's lack of support in Cabinet, and nominal claim to the office of Native Affairs Minister, decreased his credibility with Mohawk negotiators. This internecine Cabinet dispute meant that a key bridge between the Quebec government and Mohawk protestors was effectively sabotaged, hampering a resolution.

There was a clear difference in the policing approach taken towards the two conflicts although both situations were worsened by police raids undertaken in an effort to remove the barricades and occupiers. At Caledonia, the Ontario Provincial Police (OPP) conducted a raid on the DCE lands on 20 April 2006 in response to a court injunction obtained by Henco Industries to have the occupiers removed from their lands. The OPP arrested 16 individuals but the raid prompted individuals from the Six Nations to join the occupation and erect barriers. In his opening statement to the Ontario Superior Court, country lawyer John Evans stated that the OPP were repelled "by as many as 1,000 or more natives who came off the reservation on foot and on ATVs and trucks, wielding two-by-fours and shovels and like weapons" (Blatchford 13 November 2009, A12). The OPP retreated forming a perimeter around the lands. The dispute had escalated.

The raid conducted by the Quebec provincial police, the Sureté de Québec (SQ), on Oka was even more devastating. The municipality obtained an injunction from the Quebec Superior Court barring the Mohawks from continuing their protest at Oka on 26 April but was denied the same by another judge from the same court on 7 June 1990. A third application for an injunction requiring the Mohawks to remove the barriers succeeded on 29 June "and the judge compared the situation at the barricades to a state of anarchy" (House of Commons May 1991, 23). Between 2 and 6 July, both the town of Oka and the Quebec Minister of Public Security Sam

Elkas warned the Mohawks to remove the barriers (Ibid., 23). Despite the advice of John Ciaccia who feared that the SQ "was no match" for the Vietnam trained Warriors (Ciaccia 2000, 58), the municipality requested the SQ remove the barriers on 10 July. The SQ responded:

> In the early morning of July 11th, about 100 officers of the Sureté de Quebec moved in to remove the barricade. The SQ approached the barricade and asked for a spokesperson. The Mohawks were breakfasting and would not produce one, possibly because no consensus had been reached among the militant and moderate factions, or perhaps simply as a delaying tactic. The SQ then fired tear gas canisters and gave the Mohawks 45 minutes to clear the barricades. Shortly before 9:00 am the SQ moved in, firing tear gas canisters and "flash-bang" grenades behind the barricade, where of course a number of Mohawk women and children were. The warriors had been waiting for this type of police action, and responded with gunfire (Tugwell and Thompson 1991, 20-21; cf. MacLaine and Baxendale 1990, 13-24).

The SQ retreated after Corporal Marcel Lemay was fatally shot. Many Mohawks who testified before the House of Commons Standing Committee on Aboriginal Affairs saw the raid "as part of a longstanding deep-rooted conflict between nations and cultures" (May 1991, 25). The raid escalated the crisis and heightened anger within the Mohawk communities (Cross and Sévigny 1994, 76-78). The erection of barriers at the Mercier bridge and fortification of barriers at Oka meant that the Premier and Public Security Minister Elkas realised the affair could not be ended without bloodshed (MacLaine and Baxendale 1990, 24). International and domestic opinion mobilised against the Quebec and Canadian governments: "No one publicly supported the actions of the SQ" (Ciaccia 2000, 71).The SQ was embarrassed and relations with the Mohawks, which had always been strained, deteriorated further.

The aftermath to the two raids is critical in assessing the actions of the police. The SQ called for and obtained military equipment. On 30 July, SQ Director Robert Lavigne presented a plan to the Cabinet Strategy Committee in which he "suggested the SQ surround the three reserves with troops, slowly tighten the perimeter and force the surrender of the Warriors." He further suggested that Warriors be persuaded to surrender hostages by offers of "Ladies of easy virtue" (replaced by pizzas when Claude Ryan objected) and that 5,000 men would be necessary with the "army ... brought in, under the command of the SQ (Ciaccia 2000, 158-9). And "Robert Lavigne issued a warning: there must not be any political interference in the negotiations. The army and the SQ would take over" (Ciaccia 2000, 160). Not only was the SQ incorrect about the lines of command if the armed forces intervened, the SQ rhetoric and vitriol behind the scenes and on the frontlines intensified the conflict as it wore on. Despite its training, the SQ proved rather ineffective at crowd control at the barriers, prompting speculations about where their sympathies lay. When reports surfaced about the possible extent of the weaponry of the Mohawk Warriors, the SQ and Lavigne pressured Bourassa to call in the army. In sum, the actions of the SQ exacerbated an already tense situation.

In contrast, the OPP took a qualitatively different approach to the Caledonia stand- off. Most significantly, the OPP were governed by the "Framework for Police Preparedness for Aboriginal Critical Incidents" (Linden 2007, 87). This framework was designed "to improve the policing of Aboriginal occupations and protests" after incidents like the Ipperwash Beach occupation, Oka and others (Linden 2007, 87). The underlying assumption is that the "objectives of police services and police leaders during Aboriginal protests and occupations should be to minimize the risk of violence to facilitate the exercise of constitutionally protected rights,

including treaty and Aboriginal rights and the right to peaceful assembly, to preserve and restore public order, to remain neutral as to the underlying grievance, and, if possible, to facilitate the building of trusting relationships that will assist the parties in resolving the dispute constructively" (Linden 2007, 87). The framework emphasizes avoiding critical incidents by building trust with First nations. When a critical incident does arise, the framework directs police to ensure that "all parties to the critical incident have the opportunity to contribute to strategies for resolution" (OPP 2006, 6). Police should strive to calm the dispute and encourage communication and respect. After the incident, police have a role in monitoring the situations to prevent further confrontation. Certainly OPP Comissioner Fantino encouraged this approach to policing Caledonia and personally took time to develop "that trust, that dialogue, that face-to-face relationship with people" by visiting Caledonia during the crisis (Clairmont 2007). Fantino acknowledged at trial that in the interests of not causing and "escalation of conflict and violence," there were incidents he knew of "where suspects were allowed to flee unmolested onto the DCE lands" (Blatchford 20, November 2009, A6). Police used discretion in pressing charges in order to maintain the peace and keep lines of communication open. However, both he and the OPP might have been more successful in this regard with the Aboriginal leaders and community than the town council or other residents of Caledonia.

An unintended consequence of Caledonia is that non-Aboriginal residents affected by the barricades and occupation felt that their rights were not protected and have filed a series of lawsuits against the Ontario government and the OPP. One suit alleged that Fantino had interfered with the Caledonia town council and mayor when he sent an email to them threatening that he would hold the town council responsible if any of the officers were hurt during a rally conducted by a non-Aboriginal who was protesting the occupation (Clairmont 2007). This suit was dropped when the Ontario government took it over from the individual who also happened to be the organiser of the rally. Another suit was brought against the Ontario government and OPP for non-performance of their duties in protecting citizens and charging protestors engaged in unlawful activity. This suit was settled out of court in late December 2009. A third suit, a class action alleging the same, is proceeding in 2010 (Blatchford 5 January 2010, A7; Blatchford 9 February 2010, A8). The suits are supported by numerous examples of behaviour by Mohawk protestors going unpunished, despite the arrests of 75 occupiers charged with 160 offences. According to the testimony of one OPP Inspector, Brian Haggith, who commanded the Cayuga OPP detachment and who believed in the Framework, "I could see as a police officer that the natives on that site were becoming more bold and that laws were being broken, and a lot of discretion was being used by us to deal with it" (Blatchford 14 November 2009, A2). His recommendation that "instead of investigating and charging later, which is not conventional policing...we should start arresting some people while the offence is being committed" was not well-received (Ibid.). He also observed that when the firefighters were prevented from putting out the fire on the bridge, Fire Chief Dan Robinson told him that "he didn't believe we would protect him" and his men (Ibid.). What the testimony and charges in these suits indicate, is that while the police have made some significant advances in dealing with the Aboriginal leaders and community in these disputes, they need to further develop the framework to ensure affected citizens feel their rights, persons and property are protected. Although the police improved from Oka, more learning is required to ensure fairness for all.

The use of the armed forces in conflicts like Oka and Caledonia also changed over the intervening years. The beginning of this shift occurred between Akwesasne and Oka. The armed forces were called into Akwesasne shortly before the Oka occupation and were effective in

containing the dispute there (Winegard 2008/9). They operated reconnaissance missions for Oka from that base. Given that the armed forces were called into Akwesasne using the armed assistance provision in the National Defence Act, federal government control was maintained over the military and the armed forces were confined to a non-combat role (Winegard 2008, 86). In contrast, use of the Aid to the Civil Power at Oka meant that while the province could call in the armed forces and determine when the aid would no longer be needed, the Chief of Defence Staff decides the weight and scope of the intervention. Under this authority, the federal government would bear the costs of the intervention but could not deny the request (Winegard 2008, 81, 82, 86), resulting in a military commitment without the consent and support of the federal government. At Akwesasne, the estimated costs were $840,000 and at Oka the costs of the armed forces were $120 million with another $25 million spent on the RCMP (Winegard 2008/9, 38-39).[2] The benefit to using the aid to the civil power is that delays are reduced since there is no political involvement (Winegard 2008, 84). However, although there is no political control by the federal government, it would still share the blame in the public mind if the operation went wrong, meaning potential costs are high. At Oka, an exception was made giving the federal government some knowledge and indirect influence and attenuating the line of authority to the provincial Attorney General since the Chief of Defence Staff did attend Cabinet and PMO and PCO meetings (Winegard 2008, 123). Fortunately for both govenrments, the operation was largely successful and, ironically perhaps, the military leadership acted as check on the tougher law and order mentality within the Quebec government, thus preventing casualities and an escalation of the conflict (Ciaccia 2000, 281-285, 327, 332; Winegard 2008, 127, 140, 144, 145, 167-8). In fact, the Quebec government criticised the armed forces for moving too slowly (Winegard 2008, 200). The key weakness of the armed forces at Oka was that there were no clear rules of engagement so officers did not know how much abuse they were expected to take from Aboriginal and non-Aboriginal protestors and they had no riot control skills, unlike police forces (Winegard 2008, 128-9).[3] This made it much more difficult for the armed forces personnel to neutralize the Warriors and to deal with agitated residents and anti-blockade protestors.

The use of the Armed Forces had been largely successful at Oka (Tugwell and Thompson 1991, 29), albeit expensive. There were two key policy lessons. First, Oka revealed the extent to which the instruments available to the federal government to handle these conflicts are inadequate. Winegard notes that while the War Measures Act could be used in the Quebec crisis in 1970, its replacement, the Emergencies Act was difficult to use in Oka: "In effect, during the Oka crisis Prime Minister Brian Mulroney did not have the options that were available to Prime Minster Trudeau under the War Measures Act during the FLQ crisis. Although the violence of Oka had the potential to spread and ignite Indigenous peoples across the country, the wording specifies that the 'effects of emergency are', meaning current to the times. Future predictions and possible effects cannot be legally taken into account" (Winegard 2008, 85). This remains as true at Caledonia in 2006 and up to today. Our federal government's ability to handle a national crisis involving First Nations is severely limited (Maloney 2007, 149; cf. Bland 2010).

Second, a review was conducted of the role and use of the armed forces at Akwesasne and Oka as part of the regular procedures. Up to Oka, the use of the armed forces in Aboriginal critical incidents had been rather ad hoc owing to the political difficulty of formulating a firm

[2] Oka cost the province of Quebec an additional $108 million with the federal government reimbursing the province $71 million of that in compensation (Winegard 2008, 199).

[3] This was repeated to me in a private conversation with a photographer who had been at Oka during the dispute.

policy of intervention. As a result of the review, a new policy was formed: "the Canadian Forces were directed to cease non-lethal internal-security training and become the force of last resort. Police organizations were to be the lead agency for dealing with Aboriginal insurgency" (Maloney 2007, 149). The "incidents at Ipperwash and Gustafsen Lake later in the 1990s followed this pattern: the armed forces provided limited support, while the OPP and RCMP were the respective lead agencies (Maloney 2007, 162, fn. 64). At Caledonia, the armed forces were rumoured to be using the Hamilton airport as a base gathering information on Caledonia and standing by if necessary (Fenton and Oja Jay 2006), but the OPP remained the lead agency. And, when the OPP Association called for federal intervention at Caledonia, it was the RCMP they believed should be sharing the responsibility of policing and the associated costs, not the armed forces (OPPA 2006). Between Oka and Caledonia, a shift in the policy for resolving these conflicts occurred placing more emphasis on building relations and trust between Aboriginal peoples and the state rather than on using conventional police tactics and armed force intervention.

Intergovernmental learning also occurred within First Nations operations between Oka and Caledonia. As mentioned above, at Oka the community was divided between the traditionalists and Warriors and the elected band council government. The federal and provincial governments were able to exploit these differences to their advantage. At Caledonia, the division between the traditional government and elected band council also existed. However, when talks among the federal provincial and First Nations representatives commenced, "It was understood that both the elected Council and the Confederacy are making strides in moving forward to resolve their governance issues internally" (INAC Chronology2009). On Easter weekend in 2006, elected councillors mandated the traditional leaders, the Confederacy, to handle negotiations for the Six Nations regarding DCE lands and then later expanded the mandate to include the Plank Road claims (Miller 2009). This was an important development since a unified community is better able to press its claims. However, "after three years of little to no progress at the lands table and confusion and frustration from developers, the elected council opted to develop and distribute a Consultation and Accommodation document. The elected council also opted to reinstate the 1995 court case" (Miller 2009). The unified front has been weakened. To ensure that this does not become a disadvantage in negotiating a resolution to land claims, the two lines of government should keep the lines of communication open and present a coordinated front on their issues. Otherwise, resolution to both future critical incidents and to ongoing land claims and treaty negotiations become unnecessarily fraught with difficulties.

The cases of Oka and Caledonia demonstrate how municipal government can play an important role in escalating or helping to de-escalate these crises. At Oka, the municipal government and mayor contributed to the escalation of the crisis by pressing for injunctions on the blockade and for development of the golf course lands despite Minister Ciaccia's requests and advice to wait, by demonstrating little sympathy and much impatience with the occupation, by releasing incendiary statements, and by even seeming to negotiate in bad faith or not wanting to compromise (Austin and Boyd1993, 20-23). Not only is this damaging in a critical incident, it is also detrimental to longer term community relations. In contrast, at Caledonia municipal officials recognised the importance of the land claims in question and attempted to apply pressure to the federal and provincial governments to resolve the situation. Haldimand County Mayor Marie Trainer, who was part of the convoy that travelled to Queen's Park to press for a solution, said "there are a couple of claims nobody is disputing." She reasoned that "Hopefully they can get those solved and then that will prove to the Six Nations that the federal government

can be trusted and that hopefully they will show good faith and leave the site because it's the occupation that's causing us the problem. Not the land claims" (Citynews.ca 02/05/2007). Another member of the convoy captured the attitude of local officials when he said: we "understand how the natives feel," since "They've been dealing with this for 222 years, trying to get the provincial and federal governments to deal with their issues... We've been trying for 15 months and we're extremely frustrated at this point" (Citynews.ca 02/05/2007). Still, at Caledonia like Oka, there were tensions between local officials and the protestors over the occupation. Municipal support for rallies against the occupation, particularly by non-residents, agitated the situation. Some tension is inevitable given the impact of occupations on revenue flow in the affected area, the possibility of damage to municipal properties and the effects on local taxpayers and voters. While some progress was made at Caledonia towards accommodating different interests, municipal governments need to play a larger role in de-escalating tensions, pressing the provincial and federal governments to deal with Aboriginal and non-Aboriginal interests in a fair and expedient way and reconciling the differences between non-Aboriginal and Aboriginal residents.

Finally, one lesson learned from both Oka and Caledonia is that the courts must be used carefully and with discretion in these conflicts. The court issued injunctions at both Oka and Caledonia resulted in police raids on the occupations that intensified the situations. Justice Marshall's decision to suspend the tripartite negotiations at Caledonia until the injunction had been executed and the rule of law upheld, was not helpful to advancing talks or trust. Decisions based on hastily compiled facts and issued without adequate deliberations may be legally right and persuasive but may not be helpful in resolving the dispute and they may underestimate the complexity of the issues (Darling 2006). Reflecting on Judge Marshall's decision enforcing the injunction at Caledonia, lawyers Kempton and Wente conclude the "Unless courts apply the Rule of Law to the Crown in its dealings with Aboriginal peoples, and look at a dispute in its full context, then there will be little justice in our courts. The failure to do so brings the administration of justice into disrepute, more than the lack of enforcement of contempt orders against a few Aboriginal protestors" (Kempton and Wente, 2006, 2). To put this another way, the courts must realise that "En un mot, c'est la question de la légitimé de la colonisation qui a été posée par la crise d'Oka" (Dallaire 1991, 13) and Caledonia as well. As neutral arbiters in federal disputes, the Courts may be useful in litigation used to advance negotiations on land claims through difficult points or to resolve impasses. However, the cases of Oka and Caledonia illustrate that the courts must be very cautious in reacting to disputes and critical incidents.

Conclusion: Assessing the Learning Curve

If federal systems maintain their legitimacy and credibility with citizens by adapting to changing social and economic realities, then how has Canada fared with respect to Aboriginal members of the community as demonstrated by these two incidents? The paper posed three questions at the outset to assess the learning that has occurred within out federal institutions. We return to those questions now.

How well and accurately do the federal political institutions reflect the social and political balance of forces within the system?

Canadian federal political institutions adapted over the time period between the Oka and Caledonia occupations to better reflect the social and political balance of forces within the system. Oka was an awakening not only for the federal and Quebec governments but for all

governments across Canada. At Oka, the federal government was slow to act, reluctant to negotiate and willing to concede to provincial jurisdiction over public security and lands. The provincial government was obstinate and intransigent. Both levels of government wanted a resolution of the crisis before acting on the longer term issues. Both were embarrassed domestically and internationally with the Canadian state's treatment of Aboriginal peoples openly deplored by human rights agencies. By the end of the Oka crisis, federal and provincial political and public officials realised the need to resolve Aboriginal issues and especially outstanding treaty and land claims. While the record of achievement on honouring land claims and treaties was by no means stellar by the time of the Caledonia dispute, this realisation was a key factor at Caledonia in triggering tripartite negotiations. Oka, like the crises at Gustafsen Lake, Ipperwash Beach and elsewhere in the intervening period, had taught the federal and provincial governments that Aboriginal peoples were a force to be reckoned with and not simply controlled. They were to be treated with respect.

Three aspects of the crisis at Caledonia reflected this shifting balance of forces with the appropriate shift in respect. First, the federal government owned its role and responsibility in resolving the dispute more quickly. Not only did it engage at the negotiating table in good faith, it demonstrated flexibility when it broadened its position on the land claims talks to assist in finding a resolution. Second, the federal and provincial governments reflected a greater awareness and respect for Aboriginal traditions when they engaged in discussions with both the elected band council and the traditional leaders. Like Quebec Native Affairs Minister John Ciaccia and unlike the majority of officials at Oka, the federal and provincial officials at Caledonia realised the need to be inclusive in finding a solution and to respect the right and obligation of the First nation community to address its internal governance issues. The respect for First Nations was reinforced by the federal and provincial governments with the appointment of highly regarded public officials to resolve the crisis, a practice borrowed from Prime Minister Brian Mulroney at Oka but expanded at Caledonia. Third, the provincial government accepted its obligations in resolving the impasse more readily and in a more positive way at Caledonia than at Oka. In both crises, the provincial governments emphasized their role in maintaining public security, as is appropriate. However, during the Oka crisis, this "law and order" mentality dominated the Quebec government's actions and aggravated the crisis. Public security was the goal. In contrast, the Ontario government saw public security and peacekeeping as a means to a more important end: resolving a longstanding grievance. As a consequence, not only did it participate in land claims talks before the barricades came down, it also was proactive in acquiring the disputed lands and placing them in trust, an action which responded to both the developer's and the Six Nations' concerns.

To what extent do these institutions channel the influence and articulation of unity and diversity into peaceful and productive means that benefit both the constituent parts as well as the whole? In an important way, the Canadian federal system failed this part of the test. Both Oka and Caledonia are testaments to the failure of the Canadian political system to resolve their claims and grievances in peaceful and productive ways. The land claims process before both disputes was clearly flawed and remains flawed. Both the record on treaty and land claims negotiations and the specific treatment of the 29 claims filed by the Six Nations clearly indicate the process is deficient. At Oka and at Caledonia and at the intervening conflict at Ipperwash, calls for an independent body in each province to assess and resolve land claims disputes have gone largely

unheeded. This might be one step to channelling the articulation of interests into peaceful and productive means.

The handling of the two crises does indicate that the record of the federal and provincial governments has improved resulting in a more peaceful and productive outcome. The stark contrast of the operating assumptions of the SQ in Oka and the OPP in Caledonia is encouraging. While the SQ relations with the Mohawks were tense, sometimes hostile and even violent and characterized by distrust, the OPP relations were more positive. The OPP "Framework for Police Preparedness for Aboriginal Critical Incidents" represents a positive step forward in Aboriginal-state relations. The emphasis of the policy on building trust and communications between police and community residents while openly acknowledging the right of citizens to engage in peaceful protests is a positive means of channelling the articulation and influence of difference and interests into productive and peaceful means. It not only accepts and legitimizes the rights of First Nations to express dissatisfaction with the current system and to bring injustice to light, it also provides a means of creating the atmosphere conducive to productive discussions between representatives from the Canadian government, the provincial government and the concerned Aboriginal leadership. However, if the next steps are to be taken in achieving this goal, then not only must implementation of the policy continue to improve but the rights of non-Aboriginal citizens who are affected by any "critical incidents" must also be protected. This was a weakness at Caledonia, as it was at Oka, and can impede the reconciliation of diversity and unity if bad feelings between Aboriginal and non-Aboriginal citizens are allowed to fester without being addressed in a positive means. The courts cannot offer a means of address that brings the two together since the forum is adversarial with winners and losers.

The learning of federal institutions was demonstrated in the adoption of a clearer and more sensible use of the military in these incidents. At Oka, the military was called in at the request of the provincial government under a section of the National Defence Act that gave the federal government little political control over its actions or the associated costs. Not only did this reveal the inadequacy of the tools available to the federal government in responding to protests within provincial jurisdiction and to protests which spread across the country, it also raised serious questions about who should be in control in such incidents. When the military is called into a dispute, its leadership is conscious that it is the last line of resort and does not have the option of failure. The ante is upped significantly. While the armed forces may perform their duties in a largely admirable way as was the case at Oka, they do not have the authority or the skills to negotiate longer term solutions that address the underlying issues in the conflict or to mediate tensions between Aboriginal and non-Aboriginal citizens. As one soldier aptly summarised the Armed Force intervention at Oka: "Once a cycle of conflict starts, it is hard to dampen it. You need to use more force to end it and it was strange to do it in our own country" (Winegard 2007, 157). Both unity and diversity suffer.

After Oka, a policy was developed which recognised the limitations inherent in using the armed forces in domestic conflicts. The Armed Forces would be invoked only if the local policing failed. Provinces would be encouraged to call upon the RCMP and to coordinate policing actions in maintaining public security before resorting to the armed forces. The military would monitor conflicts, provide equipment if necessary but not engage unless essential. If the rumours at Caledonia are to be believed, then the military operated in the background, gathering information and monitoring the situation but not interfering. This development keeps the incident within civilian control and places the onus on provincial and federal political leaders to find a

means of resolving the conflict. In the longer term, this avenue of action is more productive for reconciling interests within a political community.

Is the appropriate balance in combining unity (shared rule) and diversity (self-rule of units) achieved?

Ultimately the answer to this question lies in the incorporation of the satisfactory answers to both treaty and land claims and to the issue of Aboriginal sovereignty in Canada. As Aboriginal peoples become more powerful and legitimate (accepted) actors in Canadian political life then the outstanding claims of First Nations, Inuit and Metis will require responsible answers. This requires Aboriginal leaders to consider the articulation of their claims in a reasonable way so that they can be addressed and the federal, provincial and territorial governments to respond to those claims in a fair and equitable manner that takes into account the interests of Aboriginal and non-Aboriginal citizens equally. The bargaining positions of the two sides at Caledonia demonstrate that neither the Aboriginal nor Canadian political leaders have mastered this role yet. Similarly, the contours of Aboriginal sovereignty must reconcile the rights of community members to a safe and secure environment without fear of rogue agents engaging in criminal activities and the place of Aboriginal peoples within the broader Canadian society. Just as claims of Aboriginal sovereignty cannot be permitted to be hijacked by rogue actors within the Aboriginal community, so too the claims of Aboriginal sovereignty cannot be dismissed by Federal and provincial officials as lacking merit in the interests of pacifying irate citizens. As both Oka and Caledonia revealed, either case tarnishes both Aboriginal and non-Aboriginal leadership, Instead, federal, provincial and Aboriginal leaders need to engage in a creative dialogue on how to protect Aboriginal identity and culture within the Canadian federal system. This is, by necessity, an ongoing dialogue with no final answer.

Yes, the Canadian federal state is adapting to the changing social and political reality of Aboriginal peoples. The two conflicts at Oka and Caledonia demonstrate that leaders at each level of government are struggling to find productive means of reconciling Aboriginal interests within the Canadian state. The history of critical incidents in the intervening years has provided an opportunity for governments to learn within their jurisdiction and from the experience of others. Some significant learning has taken place in the handling of such disputes reflecting the adaptability and resiliency of Canadian federal institutions. However, the continuing inability of our governments, Aboriginal and non-Aboriginal, to find satisfactory answers jointly and separately on the issues of land claims, sovereignty, and the reconciliation of citizen interests between Aboriginal and non-Aboriginal citizens and within the Aboriginal nations has led to an unsettling disquiet in Aboriginal-Canadian state relations. The Canadian federal state still has miles to travel before it can be said to be successful in bonding its citizens into a mutually satisfying whole.

References

Appleby, Timothy. February 4, 2010. “Charge against OPP chief dropped, but activist won’t cede fight.” *Globe and Mail,* A10.

Austin, Lisa and Christina Boyd. 1993. *The Oka Crisis,* Peace Research Reviews XIII:1. Dundas, Ontario: Peace Research Institute, October.

Bland, Douglas. 2010. *Uprising*.

Blatchford, Christie. November 13, 2009. “A couple terrorized in a ‘war zone’ while police stood by.” *Globe and Mail,* A1, A12.

-----. December 31, 2009. “For Caledonia couple, the occupation is finally over.” *Globe and Mail,* A4.

-----. November 11, 2009. “Government preoccupied with how suit seen by natives.” *Globe and Mail,* A14.

-----. February 9, 2010. “Judge lets class-action suit proceed.” *Globe and Mail,* A8.

-----. November 20, 2009. “A reign of terror, a trail of OPP inaction.” *Globe and Mail,* A6.

-----. January 5, 2009. “Settlement gives hope to others in Caledonia.” *Globe and Mail,* A7.

-----. November 27, 2009. “Two protests, two different OPP responses.” *Globe and Mail,* A10.

-----. November 14, 2009. “Two standards of policing failed the residents of Caledonia.” *Globe and Mail,* A2.

Canada. House of Commons Standing Committee on Aboriginal Affairs. 1991. *The Summer of Oka*. Fifth Report of the Standing Committee on Aboriginal Affairs. Ottawa: House of Commons.

CBC News. February 28, 2007. “Caledonia land dispute still simmering 1 year later.” Available at: http://www.cbc.ca/canada/toronto/story/2007/02/28/caledonia-setup-070228.html. Downloaded March 2, 2010.

Ciaccia, John. 2000. *The Oka Crisis: A Mirror of the Soul*. Dorval, Qc: Maren Publications.

Citynews.ca. 2007/05/02. “Caledonia Land Conflict Convoy Comes to Queen’s Park.” Available at: http://www.citytv.com/toronto/citynews/news/local/article/12801--caledonia-land-conflict-convoy-comes-to-queen-s-park. Downloaded March 2, 2010.

Clairmont, Susan. November 12, 2007. “Focus on Fantino: OPP Chief says they are peacekeepers mot problem-solvers in Caledonia.” *The Hamilton Spectator*. Available at: http://www.thespec.com/article/280597. Downloaded March 2, 2010.

Cosentino, Gina and Paul L.A.H. Chartrand. 2007. “Dream Catching Mulroney Style: Aboriginal Policy and Politics in the era of Brian Mulroney.” In Raymond B. Blake, ed. *Transforming the Nation: Canada and Brian Mulroney*. Montreal and Kingston: McGill-Queen’s University Press.

Coyle, Michael. 2007-2008. “Respect for Treaty Rights in Ontario: The Law of the Land?” *Ottawa Law Review/Revue de droit d’Ottawa*. 39:405-438.

Cross, Ronald and Hélène Sévigny. 1994. *Lasagna: The Man behind the Mask*. Vancouver: Talon Books.

Dallaire, François.1991. *Oka: La Hache de Guerre*. Ste-Foy, Quebec: Les Éditions La Liberté.

Darling, Graham. 2006. “Land Claims and the Six Nations in Caledonia Ontario.” Edmonton, Alberta: Centre for Constitutional Studies, 2002-2010.

Doering, Ronald L. January 28, 2009. “Federal Reply to Haudenosaunee Six Nations’ Welland Canal Response/Counter Proposal.” Available at: http://www.sixnations.ca/LandsResources/FedRespJan28.pdf. Downloaded March 3, 2010.

Donovan, Allan. 2007. “Aboriginal claims report challenges Canada to establish new independent review body.” *The Lawyers Weekly* 26:47 (April 20, 2007).

Fenton, Anthony and Dru Oja Jay. April 22, 2006. “Is Military Using Hamilton in Six Nations Standoff?” *The Dominion*. Available at: http://www.dominionpaper.ca/canadian_news/2006/04/22/is_militar.html. Downloaded March 3, 2001.

Hornung, Rick. 1991. *One Nation Under the Gun: Inside the Mohawk Civil War*. Toronto: Stoddart.

Indian and Northern Affairs Canada (INAC). February 2009. Chronology of Events at Caledonia. Available at: http://inac-ainc.com/ai/mr/is/eac-eng.asp. Downloaded March 3, 2010.

Kalant, Amelia. 2004. *National Identity and the Conflict at Oka*. New York: Routledge.

Kempton, Kate and Maggie Wente. 2006. *The Lawyers Weekly*. 26:19 (September 22, 2006).

Linden, The Honourable Sidney B. 2007. *Report of the Ipperwash Inquiry*. Available at: http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/report/vol_4/pdf/E_Vol4_summary_2.pdf. Downloaded March 3, 2010.

Leo, Christopher and J. Enns. 2009. "Multilevel Governance and Ideological Rigidity: The Failure of Deep Federalism" *Canadian Journal of Political Science* 42:1 (March 2009), 93-116.

MacLaine, Craig and Michael Baxendale. 1990. *This Land is Our Land: The Mohawk Revolt at Oka*. Montreal & Toronto: Optimum Publishing International Inc.

Maloney, Sean. 2007. "Better Late than Never: Defence during the Mulroney Years." In Raymond B. Blake, ed. *Transforming the Nation: Canada and Brian Mulroney*. Montreal and Kingston: McGill-Queen's University Press.

Miller, Helen. 2009. "Six Nations Councillor Speaks Out." *Perspective* July 18, 2009. Available online at: http://www.turtleisland.org/discussion/viewtopic.php?p=10302. Downloaded March 3, 2010.

Miller, J. R. 2000. *Skyscrapers Hide the Heavens: A History of Indian-White Relations*, 3rd edition. Toronto: University of Toronto Press.

Montour, William. K. 2010. "A Message from Six Nations Elected Council." January 5, 2010. Available online at: http://www.turtleisland.org/discussion/viewtopic.php?p=10302. Downloaded March 3, 2010.

Mulroney, Brian. 2007. *Memoirs 1939-1993*. Toronto: McLelland and Stewart.

Newman, Peter C. 2005. *The Secret Mulroney Tapes: Unguarded Confessions of a Prime Minister*. Toronto: Random House Canada.

Ontario. Ministry of Aboriginal Affairs. November 17, 2009. "Haudenosaunee/Six Nations Haldimand Tract Negotiations." Available at: http://www.aboriginalaffairs.gov.on.ca/english/negotiate/sixnations/sixnations.asp. Downloaded March 2, 2010

Ontario Provincial Police. 2006. "A Framework for Police Preparedness for Aboriginal Critical Incidents." OPP Field Support Bureau, Provincial Command, Field and Traffic Services. Available at: http://www.caledoniawakeupcall.com/documents/OPPAboriginal.pdf. Downloaded March 3, 2010.

Ontario Provincial Police Association (OPPA). October 20, 2006. "Federal Government should take the lead in Caledonia dispute: Poll." Available at: http://www.numberswatchdog.com/numbers%20docs/Federal%20Government%20should%20take%20the%20lead%20in%20Caledonia%20dispute.pdf. Downloaded March 3, 2010.

Puxley, Chinta. February 25, 2007. "No End Seen to Caledonia Standoff." *The Toronto Star*. Available at: http://www.thestar.com/news/article/185549. Downloaded March 3, 2010.

Six Nations Council. 2008. "Lands & Resources: Filed with Specific Claims." Available at: http://www.sixnations.ca/LandsResources/csFiledClaims.htm. Downloaded March 3, 2010.

Six Nations "Iroquois" Confederacy. April 29, 2008. "Haudenosaunee Six Nations Counter Proposal to Canada's Welland Canal Offer." Available at: http://www.sixnations.ca/LandsResources/CounterPropAug29.pdf. Downloaded March 3, 2010.

Tugwell, Maurice and John Thompson. 1991. *The Legacy of Oka*. Toronto: The Mackenzie Institute.

Valaskakis, Gail G. 2005. *Indian Country: Essays on Contemporary Native Culture*. Waterloo, ON: Wilfrid Laurier Press.

Vernon, Richard. 1988. "The Federal Citizen." In R.D. Olling and M.W. Westmacott eds., *Perspectives on Canadian Federalism*. Toronto: Prentice Hall, 1988.

Watts, Ronald. 1999. *Comparing Federal Systems*, second edition. Montreal and Kingston: McGill-Queen's University Press

Winegard, Timothy C. 2008-2009. "The Forgotten Front of the Oka Crisis: Operation Feather/Akwesasne." *Journal of Military and Strategic Studies* 11:1&2, 1-50.

Winegard, Timothy C. 2008. *Oka: A Convergence of Cultures and the Canadian Forces*. Kingston, Ontario: Canadian Defence Academy Press.

York, Geoffrey and Loreen Pindera. 1991. *People of the Pines: The warriors and the Legacy of Oka*. Boston: Little, Brown and Co.

Case Citation

Henco Industries Limited vs Haudenosaunee Six Nations Confederacy Council (August 8, 2006). Judment by Justice T.D. Marshall. Ontario Superior Court File #48/06. Available online at http://www.caledoniaclassaction.com/marshall_judgment.pdf. Downloaded March 7, 2010.

KRP Enterpprises Inc. et al. v. Ontario Provincial Police Commissioner Gwen M. Boniface et al. (February 8, 2010). Judgment by Justice D.S. Crane. Ontario Superior Court File # 114/2006-CP. Available at: http://www.caledoniaclassaction.com/rule_20_factum.pdf. Downloaded March 20, 2010.