

**WHAT'S AT STAKE ON (UN)COMMON GROUND?
THE GRAND RIVER HAUDENOSAUNEE AND CANADA IN CALEDONIA, ONTARIO**

by

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ABSTRACT

Caledonia, Ontario made the news on February 28, 2006 as broadcasters reported on a strategically planned 'occupation' by Haudenosaunee protestors from the nearby Six Nations territory of a half-finished forty-hectare housing development known as Douglas Creek Estates. Negotiations over ownership of (and compensation for) Six Nations' twenty-eight unaddressed land claims began shortly after the Ontario Provincial Police attempted and failed to remove the Six Nations occupiers, who assert that the land was not surrendered in the 1840s as Canada claims it was. The reclamation effort sparked tremendous controversy in Caledonia and across Canada; negotiations have achieved no resolution at the time of writing, and conflicts over land and resource rights are increasing in frequency and intensity both in Southern Ontario and across the continent.

This thesis undertakes a discourse analysis of texts publicly circulated by the involved parties to discover the underpinnings of the dispute, to link it to histories of Haudenosaunee and Euro-Canadian settler societies, and to generate insights regarding future Canadian-First Nations relationships. Competing claims to the land evidenced in these texts also constitute conflicting visions as to definitions of legitimacy, sovereignty, justice, citizenship and 'normal' society. As such, discursive claims are woven through with power relations and the rights to shape political and geographical landscapes. Discourses accessed, re-presented and re-articulated on both sides connect (this) land to national-cultural imaginaries, including ways of interpreting history and relationships, economies, law, and future 'places to grow.' Accounting for connections between identity and discourse reveal the ways in which spaces of difference and 'truth' are claimed by each party. In Caledonia, Six Nations is discursively positioned outside of 'the law,' of acceptable and rational society, and of political recognition as a nation; on the basis of these and other exclusions, Haudenosaunee epistemologies, histories, and priorities are rejected in this dispute over land. This present-day conflict re-presents Canada's foundations in British colonial law and the ongoing symbolic and physical erasures of people who were here first, and demonstrates again the need to shape new relationships and landscapes in Canada.

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Chapter One

APPROACHING THE STORY

Prologue

Caledonia, Ontario made the news on February 28, 2006 as broadcasters reported on a strategically planned 'occupation' by Haudenosaunee protestors from nearby Six Nations territory of a half-finished forty-hectare housing development known as Douglas Creek Estates. The protestors reclaimed the land as their own, asserting that it had never been surrendered to the Crown to be sold to third parties. Many non-First Nations Caledonians and other Canadians across the country felt shocked and betrayed: to them, Canadian land title meant ownership, and the developing company had paid for the property 'fair and square.' What did it mean if First Nations people could invade and seize at will, apparently without consequences? Spokespersons for the attention-grabbing protest maintained that action was necessary, following years spent waiting for Canada's land claims system to address fraudulent land alienations.¹

Should the events have been surprising? Physical and discursive expressions of First Nations 'land claims,'² in the forms of demonstrations, declarations, and scholarship on the subject, have been mounting in frequency, forcefully disrupting Canadian cultural imaginaries of history long-passed and harmony in diversity predicated on the ongoing denial of First Nations' rights. Three years after the beginning of this protest, negotiations between Canada and Six Nations drag on without appreciable progress.

What is at the root of this dispute? Why are the two sides unable to arrive at a resolution? Is it that the parties have such differing perceptions of the dispute? How can the ontologies of the parties involved be so fundamentally opposed? 'Reality' assumes singularity, but an engagement

¹ Claims were launched in the 1970s. Eventually, in the 1990s, Six Nations' elected council pressed a lawsuit in an attempt to force the Crown to provide a full accounting of land sales and the proceeds which were to have been placed in a fund for the Six Nations' benefit. The Crown's stall tactics meant that the case made virtually no progress over several years. Six Nations eventually placed the litigation in abeyance in 2005 when the federal government promised that progress would be made in negotiations processes.

² The term 'claims' is problematic to many both within and outside of First Nations circles because of the way it frames issues in the legal terms of the colonizers. The term land 'rights' is often preferred.

with past and present historical-geographical-cultural accounts provided by those contending for the land indicates otherwise. What material and discursive circumstances underpin this conflict? How are its origins shaping its outcome?

In this thesis, I argue that the public discourses constituting this land dispute expose ongoing historical erasures crucial to Canadian colonial and space-making projects. A close examination of the messages elaborated by the involved parties reveal underlying cultural and strategic disparities in approaches to land, both as a resource and as a foundational piece of larger identities. This conflict calls into question Canada's national imaginary, laying bare obstacles which thwart honourable and honest relations with First Nations situated within its borders, and highlighting the imperative for a new approach to resolution - indeed, a new relationship, for Canadian social sustainability now depends upon our ability to re-articulate. The story to be told – I do not equivocate, for we are all telling stories - could begin in any number of places. My intent, however, is to relate this research in a way that reflects as closely as possible how I grappled with the story: a gradual un-mapping of the histories and discourses surrounding the dispute,³ aiming to expose the 'common-place' assumptions and imaginaries which make sense of Canadian geographical and political spaces both past and present.

To that end, I begin this chapter by introducing the reader, as I did myself, to the intertwining stories of the Haudenosaunee people of the Grand River Territory, usually known as Six Nations, and the town of Caledonia, the geographical nucleus of this part of the story. I next provide an account of the colonial 'legalities' implicated in British (later, Canadian) claims to territory in which lopsided access to lands and resources between First Nations and newcomers is refurbished as common sense in a national narrative based on underlying Crown sovereignty and land title. It was after beginning to acquaint myself with these stories that I more seriously considered my own implication in them as an individual and a Euro-Canadian, and so I next sketch for the reader my understanding of my place and purpose in the story. I conclude the chapter by

³ I owe this terminology of mapping and unmapping to Sherene Razack, whose *Race, Space, and the Law: Unmapping a White Settler Society* (Toronto: Between the Lines, 2002) has inspired me (and, I hope, my work) in many ways.

relating the theoretical and methodological approaches I took to researching and probing the various accounts and what I hope to accomplish in this effort.

The Haudenosaunee Confederacy

The Haudenosaunee Confederacy⁴ formed many centuries ago when five warring nations - the Mohawk, Oneida, Onondaga, Cayuga, and Seneca - symbolically buried their weapons under the roots of the great white pine Tree of Peace. The Peacemaker, a messenger born on the north shore of Lake Ontario, brought the Great Law of Peace⁵ to the First People from the Creator, focusing on collective peace and righteousness.⁶ The Peacemaker delivered the Law with the assistance of the first Mohawk Confederacy Chiefs,⁷ providing a governance structure which continues to this day. The first person to receive the Law, Tsikonhsaseh, secured for women the right to select the members of the Confederacy Council, comprising representatives of the 50 clan families of the united Five Nations. Other key guidance positions within the Haudenosaunee culture include Clan Mothers, sub-chiefs or deputies, and Faithkeepers, each with individual responsibilities. Though international consensus was sought in decisions made in a League-wide forum, if it could not be achieved, nations or groups were permitted to act autonomously, providing an example of independence within alliance, peace through diplomacy.⁸

The Confederacy nations conceptualized their alliance as a longhouse arranged from west to east, reflecting original national geographic locations in the territory; the Onondaga served as the central keepers of the fire and the Seneca and Mohawk as the eastern and western doorkeepers.⁹ Haudenosaunee clan and nation structures and naming schemes also knot land and identity together: the word *otara* in Mohawk means land, clay, earth as well as clan, and in asking an individual to which nation they belong, one literally refers to their territory: “What

⁴ Commonly known to settler societies as the famed Iroquois Confederacy or the League of the Iroquois

⁵ See Hill, “The clay we are made of,” 83-112, for a more detailed overview of the Great Law of Peace, from which this account primarily borrows.

⁶ Porter, “Building a new longhouse,” 900.

⁷ These first Mohawk chiefs carried, then later passed on, the titles of Ayenwatha and Tekarihoken; the current Six Nations Confederacy Chief, Allan McNaughton, still bears the name Tekarihoken.

⁸ Becker, “We are an independent nation,” 983.

⁹ Becker, “Native Peoples,” 236; Johnston, *The valley of the Six Nations*, xxx.

earth or land are you made of?" The Seneca, for instance, are the "Great Hill People," while the Mohawk are the "People of the Flint."¹⁰

As a societal model based on balance and consensus, the Great Law has inspired extensive study originating both within and without the Haudenosaunee; although a range of accounts has resulted, coherent visions emerge of the Haudenosaunee relationship to land and its tightly configured jurisprudence. The Law addresses, among other domains: boundaries of and travel within the unified national territories; connections between territory and national identities; kinship systems of interdependence between clans and nations; processes for replacing dead leaders through powerful condolence ceremonies; and collective responsibilities and rights. Several wampum belts and strings set down certain internal treaty principles of the Great Law; for instance, the Dish with One Spoon¹¹ specifies that though national distinctions persisted, each nation was to share resources and land responsibly, taking only what was needed and not more than could be sustained by nature. A scholar wrote in the 1800s that "The regard of Englishmen for their Magna Charta and Bill of Rights, and that of Americans for their national Constitution, seem weak in comparison with the intense gratitude and reverence of the Five Nations for the 'Great Peace,'" describing the Haudenosaunee as a linguistically, culturally, and religiously advanced people "imbued with the strongest possible sense of personal independence, and resulting from that, a passion for political freedom."¹²

Traditional Haudenosaunee economy can be understood as two intertwining elements: the external 'forest' of hunting, trade, and warfare, and the internal 'clearing' consisting of agriculture, food processing, and child rearing.¹³ The beautiful forested lands of 'Iroquoia' encountered by Champlain resulted from the symbiotic relationship of the Haudenosaunee with their closely managed lands.¹⁴ A complex farming culture included extensive tilled gardens and a seasonal calendar prioritizing renewal through prescribed times of burning, planting, harvest,

¹⁰ Susan Hill, personal communication; Doxtator, "What happened to the Iroquois clans?," 6, 56; Hill, "The clay we are made of," 121-124

¹¹ Hill, "Traveling down the river of life together'."

¹² Hale, *The Iroquois Book of Rites*, 33-34, 189.

¹³ Doxtator, "What happened to the Iroquois clans?," 1; Becker, "Native Peoples," 229.

¹⁴ Carpenter, *The renewed, the destroyed, and the remade*, 7.

fallow, and celebration.¹⁵ Villages moved from place to place to avoid exhausting the soil, and relationships between the earth and living beings were well understood by the Haudenosaunee, who grew corn, beans, and squash (the Three Sisters) in mingled patches providing mutually beneficial nutrients, water retention, and support structures.¹⁶

The Haudenosaunee Creation Story¹⁷ helps to illuminate the significance of Haudenosaunee epistemologies to their perspectives on land and territory and to material practices such as those described above. According to the origin story, a pregnant Skywoman fell through a portal, descending from the Skyworld to the world of water below and landing on the back of an obliging giant sea turtle. A self-sacrificing muskrat brought dirt from under the water to help Skywoman to feel at home, and the world began to grow under the powers of the Skywoman and the turtle. Skywoman's daughter Zephyr bore twins: the first, Skyholder, emerged from Zephyr's birth canal, and the impatient younger brother, Flint, from her armpit, killing her in the process. Zephyr was the first person to be buried in this world, and on her daughter's grave Skywoman planted seeds of corn, beans, squash, tobacco, and strawberries. The brothers played a game of chance for control of the land, and Skyholder defeated his brother, who advocated for an absence of life on Turtle Island. Skyholder used the power of the earth to create living beings from soil, proclaiming that as they die, they will return to the earth and bring about future life. Returning to his grandmother's Skyworld after Creation, Skyholder left the Original Instructions for life on earth.

Humans maintain an ongoing relationship with the Skyworld by following the Original Instructions which ensure that the earth and all life on her are treated with thankfulness and respect. Ceremonies taught by a messenger from the Creator play specific roles in the thanksgiving and celebration of life, serving "as a reminder of that original pact between humans and the Creator. As long as the First People remembered to be thankful for all of Creation, [the Creator's] will –

¹⁵ Ibid., 1.

¹⁶ Ibid., 10.

¹⁷ For more detailed accounts of the Creation story and the Four Ceremonies from which this version is sourced, see Hill, "The clay we are made of." As Hill explains, Haudenosaunee epics were originally recorded using methods other than the written word; their continuous communication remains assured through, for instance, the repetition of speeches and songs and the passing down of wampum, as well as written texts fashioned by diverse scholars and knowledge carriers from various backgrounds both within and without the Haudenosaunee.

that life would continue to exist on this earth - would prevail.”¹⁸ According to Haudenosaunee epistemologies, the world is never finished: through repetition of patterns, accumulative change serves as the basis of continuity, so that the present is really “the accumulation of different repeated events in the world that sees itself as incorporating and subsuming the past, rather than breaking from it or discarding it. In this view of history nothing is lost or disappears.”¹⁹

Haudenosaunee-settler relationships

The Haudenosaunee, who adopted the Tuscarora as “little brothers” and the sixth nation of the Confederacy in the 1700s, were a powerful political and military force to be reckoned (or allied) with, both by other First Nations and by the newcomers who arrived later. In the face of increasing European presence, the Confederacy at first seemed stronger than ever, selectively incorporating European technologies and successfully controlling the Great Lakes fur-trading routes.²⁰ Their traditional lands comprised an enormous area from the Hudson River in the east to Lake Erie in the northwest and including the northern part of Pennsylvania in the south,²¹ and expanded in the seventeenth century as refugees from other First Nations sought to join the Confederacy and were accorded representation in compliance with the Great Law.²²

Today, the largest population of Haudenosaunee, the Six Nations, lives on Indian Reserve 40, about 22,000 hectares of land situated along the Grand River in southern Ontario between the city of Brantford and the town of Caledonia. In total, there are eighteen Haudenosaunee communities located throughout Ontario, Quebec,²³ Wisconsin, Oklahoma, and upstate New York, each of which include varying compositions of the various six nations of the Confederacy as well as members of other dependent nations. How did the famed League of the Iroquois come to be so physically fractured, its territory reduced to a smattering of its former vastness?

¹⁸ Hill, “The clay we are made of,” 82.

¹⁹ Doxtator, “What happened to the Iroquois clans?,” 328.

²⁰ Carpenter, *The renewed, the destroyed, and the remade*, 118.

²¹ Bourgeois, “The Six Nations: a neglected aspect of Canadian legal history,” 256.

²² Hill, “The clay we are made of,” 183.

²³ For locations and brief histories of the communities located in Canada, see Becker, “Native Peoples,” 238-239.

This part of Haudenosaunee history bears similarities to the stories of many other First Nations. The shaping of North American space weaves the crucial issue of territory with differing cultural histories, sovereignty, and treaty relations. Euro-American interrogations of the nature of Aboriginal land title²⁴ began at contact and retain roots in the shifting nature of the relationship between the newcomers and Turtle Island's Original People. Since Europeans were often unable to convince occupants to cede all of the territory that they desired, they established a framework that would permit them to take it without consent: the 'legal' concept of *terra nullius*, denoting empty and therefore un-possessed land. This account indexed Aboriginal peoples as the most primitive members of the human race (the Lockean notion that 'In the beginning, all the world was America' neatly encapsulates this view of societal 'development'); in this state of nature, there are no territorial jurisdictions, nationhood, property rights, or legitimate governments, and all encounters are dealt with according to the law of nature.²⁵ The term *sovereignty* itself comprises a contested spatial imaginary: European notions²⁶ focus on a common power held over a group of men - a 'Commonwealth' - for defence and security, attained either by force or voluntary agreement. It is unclear whether this definition implies inclusion of those, such as many First Peoples, who were neither conquered nor agreed to join the Commonwealth, and do not believe themselves to have entered it but are assumed by others to have done so.

However, prior to the invention of 'terra nullius,' treaty alliances with Native peoples were often considered necessary to avoid unnecessary colonial wars.²⁷ The powerful Haudenosaunee Confederacy was continuously sought as friend and ally first by the Dutch, then by the French and English in their turns. When the Dutch at the Fort Orange trading post proposed a trading treaty in the 1600s, the Haudenosaunee insisted on a connection similar to the intergovernmental alliances of the Confederacy, resulting in the creation of the Two Row Wampum²⁸ in 1613: a well-

²⁴ The term 'Aboriginal title' is also one which serves a purpose in Canadian constitutional law that does not always coincide with Aboriginal conceptions of their connection to their lands.

²⁵ Tully, *Strange multiplicity*, 71.

²⁶ Indigenous definitions and employments of the term 'sovereignty' are explored in greater detail in Chapter 3 and more fully in Taiaiake Alfred's *Peace. Power. Righteousness*. The European concept described here Hobbes, *Leviathan*

²⁷ Haring, *White man's law*, 18.

²⁸ This discussion of the Two Row Wampum and following treaties is based on Hill's account in "Traveling down the river of life together in peace and friendship, forever': Haudenosaunee land ethics and treaty agreements as the basis for restructuring the relationship with the British Crown", (Winnipeg: Arbiter Ring Publishing) 1-45.

known symbol of cooperation and autonomy, the belt embodying the relationship recognizes simultaneous interaction and independence between the Haudenosaunee and the first European settlers. It is made up of two parallel rows of purple beads, representing the Haudenosaunee and European governments, respectively, separated by three rows of white beads symbolizing peace, trust and respect. Themes of separation and integration consistently recur in Crown-First Nations relations,²⁹ and the Two Row Wampum principles were later borrowed by the British in relationships with other First Nations.³⁰

The 1664 Fort Albany Treaty conveyed the relationship from the Dutch to the British, who eagerly sought to assume the trading privileges, military alliance, and brotherly connection. The mutual desire was to keep the separate vessels of the Haudenosaunee and the British as peaceful neighbours and allies as they traveled down the river together, despite different worldviews and histories. The treaty set out stipulations for separate criminal jurisdictions and recognition of each party's inherent sovereignty was affirmed at a further council in 1677. These ideas developed into a treaty relationship embodied by a silver Covenant Chain linking both the British ship and the Haudenosaunee canoe to the 'Great Mountain' for the rest of time. The chain was meant to be 'polished' through regular councils to affirm the alliance and mutual responsibilities, and provided for the addition of parties on both sides of the chain.³¹ The concepts inherent in the Two Row Wampum and the Covenant Chain were intended to serve as guides for all time³² and are invoked time and again by Six Nations as central themes in the current dispute over land.

In the 1701 Nanfan Treaty or Beaver Hunting Grounds Treaty, the Haudenosaunee called upon the Covenant Chain relationship in asking the British to protect their northern and western hunting grounds against encroachments of other European settlers.³³ At this time, the British were still highly dependent on the Haudenosaunee for assistance in a possible war against the French and dominance in the fur trade. However, at the 1744 Treaty of Lancaster signed

²⁹ Borrows, *Recovering Canada*, 126.

³⁰ Williams and Nelson, *Kaswentah*.

³¹ Hill, "The clay we are made of," 191.

³² Williams and Nelson, *Kaswentah*.

³³ *Ibid.*, pt. iii.

between the Haudenosaunee and the British colonies, an Onondaga Confederacy Chief demonstrated prescient comprehension of the already troubled relationship:

... long before one hundred years our Ancestors came out of this very ground, and their children have remained here ever since... You came out of the ground in a country that lies beyond the Seas; there you may have a just Claim, but here you must allow us to be your elder Brethren, and the lands to belong to us before you knew anything of them. It is true, that above one hundred years ago the Dutch came here in a ship... During all this time the newcomers, the Dutch, acknowledged our right to the lands... After this the English came into the country ... About two years after the arrival of the English, an English governor came to Albany, and finding what great friendship subsisted between us and the Dutch, he approved it mightily, and desired to make as strong a league, and to be upon as good terms with us as the Dutch were... Indeed we have had some small differences with the English, and, during these misunderstandings, some of their young men would, by way of reproach, be every now and then telling us that we should have perished if they had not come into the country and furnished us with strouds [blankets] and hatchets and guns, and other things necessary for the support of life. But we always gave them to understand that they were mistaken, that we lived before they came amongst us, and as well, or better, if we may believe what our forefathers have told us. We had then room enough, and plenty of deer, which was easily caught... We are now straitened, and sometimes in want of deer, and liable to many other inconveniences since the English came among us, and particularly from that pen-and-ink work that is going on at that table.³⁴

The British called for Haudenosaunee support in their war against the French in 1755, assistance crucial to the British victory. However, the 1763 Peace of Paris at the close of the Seven Years' War saw Haudenosaunee land "given up" by the French to the British.³⁵ Tensions increased when the British upheld falsely obtained patents to land and fortified instead of dismantling French-built forts in Haudenosaunee territory.³⁶ In response to complaints from various First Nations who threatened banding together against British colonists, the King issued the *Royal Proclamation* of 1763 recognizing Indigenous peoples as 'Nations' with whom treaties had to be negotiated. It *technically* enshrined inalienable rights of First Nations to their lands:

And whereas it is just and reasonable, and essential to Our Interest and the Security of Our Colonies, that the several Nations or Tribes of Indians, with whom We are connected, and who live under our Protection, should not be molested or disturbed in the Possession

³⁴ Treaty Minutes, Pennsylvania Council Minutes, 16 June 1744, 4:706-709, as cited by Hill, 'Traveling down the river of life together,' 34.

³⁵ Becker, "We are an independent nation," 993.

³⁶ Hill, "The clay we are made of," 222.

of such Parts of our Dominions and Territories as, not having been ceded to, or purchased by Us, are reserved to them, or any of them, as their Hunting Grounds.³⁷

Furthermore, due to “great Frauds and abuses ... committed in purchasing Lands of the Indians, to the great Prejudice of our Interests, and to the great Dissatisfaction of the said Indians,”³⁸ henceforth only the Crown was permitted to purchase lands in the “Indian Territory” through formal and public councils, including representatives of the Native peoples whose lands were involved; *after purchase*, the Crown could sell or grant the lands to others. Some view the *Proclamation* as a sort of Magna Carta for the Indians in which the Crown declares the land to be in possession of the peoples occupying it; others view it as of only short term importance as a measure designed to ward off Indian wars.³⁹ The Royal Commission on Aboriginal Peoples asserted in 1996 that the *Proclamation* continues to give consequence to a legal and political trust-like relationship in Canada.⁴⁰ In practical terms, however, it had limited effect.

The 1768 Treaty of Fort Stanwix included a line marking the division between Indian lands remaining under the Royal Proclamation from those transferred to the American colonies southeast of the line. Entering the treaty was another step taken by the Haudenosaunee to stop the tide of incoming settlers, though the Covenant Chain had been tarnished by incursions permitted by the British on Haudenosaunee lands.⁴¹ The British, on the other hand, viewed the treaty as a cession of land.⁴² This marked a change in territorial alliance: previously, the British and the Haudenosaunee had agreed to share hunting grounds, but clearly this was not working; indeed, tides of settlers continued to settle in Haudenosaunee territory after this treaty, as well.⁴³

The American War of Independence (1775-1783) forced the Haudenosaunee to decide whether to support the British or the Americans. The final decision was left to individual nations within the Confederacy: though most initially attempted to stay neutral, many Haudenosaunee again

³⁷ Johnston, *The valley of the Six Nations*, 70.

³⁸ *Ibid.*, 70.

³⁹ Surtees, “Land Cessions, 1763-1830,” 95.

⁴⁰ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, vol. 2.

⁴¹ Surtees, “Land Cessions, 1763-1830,” 96; Hill, “The clay we are made of,” 227.

⁴² Bourgeois, “The Six Nations: a neglected aspect of Canadian legal history,” 256.

⁴³ Hill, “The clay we are made of,” 228.

fought with distinction on the British side.⁴⁴ The war destroyed many of their settled habitations.⁴⁵ In addition, the international boundary imposed in the Treaty of Paris at the war's close placed many Haudenosaunee lands within the American republic, despite British promises to the contrary.⁴⁶ Their status as British allies required around five thousand Haudenosaunee to retire to the Niagara River near what is now Lewiston, New York after the American victory. In the event of a British loss and in fear of an uprising, compensatory lands had been promised to the Haudenosaunee first in 1775 and again in 1779 by Governor (of present-day Quebec and Ontario) Frederick Haldimand. Joseph Brant, a key Mohawk military leader, journeyed from Niagara to claim the lands at the war's close. Though not a Confederacy Chief, Brant served as a spokesperson guided by the Confederacy by virtue of his personal abilities and familiarity with the British.⁴⁷ He selected land along the Grand River, within the traditional western and northern Beaver Hunting Grounds of the Haudenosaunee, partly in order to remain close to kin choosing to remain in the United States. The October 25, 1784 Haldimand Proclamation declared that:

In Consideration of the early Attachment to his Cause manifested by the Mohawk Indians, & of the loss of their Settlement they thereby sustained that a convenient Tract of Land under His Protection should be chosen as a Safe & Comfortable Retreat for them & others of the Six Nations who have either lost their Settlements within the Territory of the American States, or wish to retire from them to the British ... I do hereby in His Majesty's name authorize and permit the said Mohawk Nation, and such other of the Six Nations Indians as wish to settle in that Quarter to take Possession of, & Settle upon the banks of the River commonly called Ours or Grand River, running into Lake Erie, allotting to them for that purpose Six Miles Deep from each Side of the River beginning at Lake Erie, & extending in that Proportion to the head of the said River, which them & their Posterity are to enjoy for ever.⁴⁸

Especially in light of their key role in the American Revolutionary War, the Haudenosaunee maintain that they have a special status among the First Nations of Canada as allies, not subjects, and that the Grand River lands were recognized on this basis.⁴⁹ The disorderliness of early

⁴⁴ Johnston, *The valley of the Six Nations*, xxxiii; Becker, "We are an independent nation," 994.

⁴⁵ Hill, "The clay we are made of," 242.

⁴⁶ Surtees, "Land Cessions, 1763-1830," 97; Hill, "The clay we are made of," 240; Johnston, *The valley of the Six Nations*, xxxiv.

⁴⁷ Hill, "The clay we are made of," 243; Johnston, *The valley of the Six Nations*, xxxv.

⁴⁸ National Archives of Canada, Haldimand Papers, B222, 1071, cited in Johnston, 1964, 50-51.

⁴⁹ In a 1701 treaty, the lands had already been acknowledged to have been part of Haudenosaunee territory long before the settlers arrived.

Canadian law, however, was to have deep and direct effects on the migrants who accompanied Brant to found the Six Nations Grand River community, and their descendants.⁵⁰

The tract was six miles wide on each side of the river from its source to its mouth, totalling about 1,200 square miles.⁵¹ Though the lands were quite similar to home territories of the Six Nations in terrain, soil characteristics, and animal and plant life, and familiar because they were part of traditional hunting grounds,⁵² the move from Niagara was difficult due to the lack of time to prepare and clear land for settlement, low provisions, as well as grief and losses incurred during the war.⁵³ The settlement initially forged included distinct clearings and forest lands, twelve national or sub-national villages, and national rather than individual plots of land settled under the guidance of specific leaders.⁵⁴

The Haldimand Proclamation, in Brant's opinion, recognized Haudenosaunee fee simple title, fully controlled by the Six Nations and "absolutely our own,"⁵⁵ but Crown-appointed trustees of the Six Nations concluded that the Haldimand Proclamation had left legal title still vested in the Crown.⁵⁶ Presumably, the Six Nations either failed to see the racism which differentiated their title from that of white Loyalists re-settled by the Crown, or chose to ignore it.⁵⁷ Other issues arose quickly: Haldimand had apparently not used the appropriate government seal on the document, and the land had not been properly surveyed.⁵⁸ The Simcoe Patent⁵⁹ issued in 1793 by Upper Canada's first lieutenant-governor confirmed the Haldimand Proclamation *as well as* the Crown's pre-emptive right to the land, and sought to deny Six Nations the right to alienate any part of their territory without Crown approval. It also designated 300,000 fewer acres than its predecessor by failing to note the headwaters of the river as part of the Tract,⁶⁰ a fact

⁵⁰ Harring, *White man's law*, 36.

⁵¹ Hill, "The clay we are made of," 233; Johnston, *The valley of the Six Nations*, xxxviii.

⁵² Hill, "The clay we are made of," 246.

⁵³ *Ibid.*, 249.

⁵⁴ Doxtator, "What happened to the Iroquois clans?," 220; Johnston, "The Six Nations," 170.

⁵⁵ Johnston, *The valley of the Six Nations*, 170.

⁵⁶ Bourgeois, "The Six Nations: a neglected aspect of Canadian legal history," 259.

⁵⁷ Harring, *White man's law*, 36-37.

⁵⁸ Hill, "The clay we are made of," 260; Johnston, *The valley of the Six Nations*, xxxix.

⁵⁹ Simcoe's Patent of the Grand River Lands to the Six Nations, 14 January 1793, reprinted in Charles M. Johnston, *The Valley of the Six Nations*, 73-74.

⁶⁰ Hill, "The clay we are made of," 265; Johnston, *The valley of the Six Nations*, xxxix.

immediately noted and protested by the Six Nations through various statements of claim, journeys to the Colonial Office in Britain,⁶¹ and formal claims processes continuing to this day.⁶² Possibly, both Haldimand and Simcoe sought to placate the still powerful Six Nations with an ambiguous grant sounding like a deed but lacking the key language required for a fee simple deed according to British law.⁶³ After all, as early as 1785 the Grand River Six Nations numbered over 1800, a significant power base in the young colony; Brant himself was justly respected as a notable leader and proven war chief.⁶⁴

Retorting that the Six Nations were fully capable of protecting their own interests and that Six Nations' law governed the disposition of the lands,⁶⁵ Brant began in 1796 to exercise the power of attorney granted to him to act on Six Nations' behalf, leasing large acreages and investing the proceeds. This history is complicated by the knotty identity of Brant himself: comfortable in both European and Haudenosaunee settings from youth, a powerful and famous warrior, a chosen spokesperson and advocate for Six Nations and the Confederacy Council, but perhaps sometimes over-driven by personal egotism and his own vision for his people to act beyond the authority accorded to him by the Council.⁶⁶ Asserting that the area was both too small for the traditional hunting-gardening economy of the Six Nations, and certain to be encroached upon by further waves of settlers and squatters, Brant worked to negotiate the divide between the Haudenosaunee and British law and property systems,⁶⁷ seeking to ensure the future welfare of Six Nations by establishing annuities from a permanent fund created by leasing land.

The Crown's agents often contended that by surrendering lands, perpetual incomes would be assured.⁶⁸ Many in the community, however, advocated against leasing or selling Six Nations land, concerned that it would lead to eventual loss,⁶⁹ or feeling that land is "not a commodity

⁶¹ Weaver, "The Iroquois: the Grand River Reserve," 232; Hill, "The clay we are made of," 267.

⁶² Six Nations Lands and Resources, *Land rights, financial justice, creative solutions*.

⁶³ Harring, *White man's law*, 39.

⁶⁴ Surtees, "The Iroquois in Canada," 76.

⁶⁵ Johnston, *The valley of the Six Nations*, xlv; Harring, *White man's law*, 39.

⁶⁶ Hill, "The clay we are made of," 270-272.

⁶⁷ Johnston, *The valley of the Six Nations*, xlv; Harring, *White man's law*, 9.

⁶⁸ Surtees, "Land Cessions, 1763-1830," 112.

⁶⁹ Doxtator, "What happened to the Iroquois clans?," 224.

which can be conveyed.”⁷⁰ Indeed, many settlers capitalized on the disorder and moved onto Six Nations’ lands,⁷¹ and Brant sometimes sold more land than he had been authorized to do.⁷² Other Six Nations individuals reaching out to the ‘external economy’ sometimes leased areas of land on 999 year terms or alienated land on other terms without community approval.⁷³ Sales of approximately 350,000 of what originally comprised nearly one million acres under the original Haldimand Proclamation were formally sanctioned by the Crown in February 1798. Local authorities, including Peter Russell, Simcoe’s replacement as Upper Canada’s lieutenant-governor, were justifiably afraid of trouble with Six Nations and agreed to register the sales, reinforcing Brant’s view that the lands fully belonged to the Six Nations: “As to the Title I believe there’s no danger now.”⁷⁴ However, the government also frequently confirmed grants of land larger than those which had been released by the Six Nations.⁷⁵

Haudenosaunee society at this time was deeply shaped by the visions of Handsome Lake, Seneca Confederacy Chief and prophet, revealed to him in the early 1800s.⁷⁶ Commonly dubbed ‘the Good Message of Handsome Lake,’ the visions outlined accommodation to post-contact life within the framework provided by the Original Instructions, and encouraged the Haudenosaunee to actively “remake their world”⁷⁷ in the face of changes resulting from European incursions, especially land loss and threats of assimilation.⁷⁸ The messages sent from the Creator included “problems with the way in which some people were living at that time; the wishes of the Creator in how people should live, and prophetic vignettes of things to come,”⁷⁹ and have been reiterated every fall since the prophet’s death in 1815. Primarily focusing on a return to traditional principles, he declared that it was now appropriate for men to till the fields (previously worked mainly by women), since the role of the external forest economy had diminished due to outside interference. The prophet commended utilization of new technologies in house building,

⁷⁰ Noon, *Law and government of the Grand River Iroquois*, 97; Johnston, *The valley of the Six Nations*, xviv.

⁷¹ Rogers, “The Algonquian farmers of southern Ontario,” 152; Harring, *White man’s law*, 37.

⁷² Hill, “The clay we are made of,” 279.

⁷³ Doxtator, “What happened to the Iroquois clans?,” 128.

⁷⁴ Harring, *White man’s law*, 39; Johnston, “The Six Nations,” 173; Johnston, *The valley of the Six Nations*, I.

⁷⁵ Hill, “The clay we are made of,” 282.

⁷⁶ *Ibid.*, 112-120.

⁷⁷ Carpenter, *The renewed, the destroyed, and the remade*, 136.

⁷⁸ Johnston, “The Six Nations,” 176; Porter, “Building a new longhouse,” 823.

⁷⁹ Hill, “The clay we are made of,” 113.

perpetuating a shift from larger to smaller longhouses that had begun before contact, as well as the keeping of livestock to compensate for the loss of wild game.⁸⁰ However, Handsome Lake warned against too much involvement in the white man's wars and affairs, emphasizing the incorporation of new ideas only as appropriate to Haudenosaunee ways of life and duties to creation. Haudenosaunee versions of Christianity adopted over time also served as pragmatic responses to the massive changes occurring in the 1800s both at Six Nations and other Haudenosaunee communities,⁸¹ though the traditional Longhouse religion remained strong.⁸²

Meanwhile, Caledonia's story⁸³ began to intertwine with that of Six Nations. The first non-Native settlers in the vicinity of what would later become Caledonia were friends of Joseph Brant, fellow refugees from the Revolutionary War. They were allotted land in Seneca and Oneida Townships, and other settlers soon followed, though not necessarily in possession of title given either by Six Nations or the colonial government. With the passing of a bill in 1832 authorizing canal and lock building on the Grand River, the Grand River Navigation Company was formed; also in the early 1830s, the Crown approached Six Nations about building a plank road from Hamilton (to the north of Caledonia) to Hagersville (to the south), and Six Nations eventually agreed to lease the land for the road and some developments alongside it. One of Caledonia's founding figures, Ranald McKinnon, arrived in 1835 to what was still viewed largely as a 'wilderness' area; it was this year that the Navigation Company launched full operations and Caledonia began to grow more rapidly, escalating problems with squatters on Six Nations land. By 1846, the Six Nations villages of Seneca and Oneida had been subsumed by Caledonia. Seven years later, canal traffic had more than doubled; with it, the town grew in size and prosperity, stabilizing at a population of around 1,250 between 1852 and 1881. The town newspaper, the *Grand River Sachem*, started publishing in 1856; the Town Hall opened for its first meeting in 1858; and various factories and sawmills opened in the 1860s. When rail took over and the navigation company collapsed, Caledonia's population decreased to a low of 801 in 1901, but re-grew to about 1400 by 1941.

⁸⁰ Ibid., 117.

⁸¹ Doxtator, "What happened to the Iroquois clans?," 10.

⁸² Johnston, *The valley of the Six Nations*, lxiv, lxxvii

⁸³ See Barbara Martindale, *Caledonia: along the Grand River* (Winnipeg: Natural Heritage Books, 1995).

Settler philosophies prizing individual rights and hierarchical government contrasted starkly with the Great Law.⁸⁴ These differences played out dramatically in land 'ownership' issues over the next centuries, since Canadian prosperity is tied to an extractive frontier of essentially free natural resources; "the extractive frontier, in turn, has been the cause and result of social and legal discrimination against Aboriginal peoples."⁸⁵ The Six Nations have traditionally held with other First Nations a concept of land markedly at odds with Western ideas of individual ownership. As democratic societies in which leaders were held accountable to their people, *sharing* the land through treaty processes was firstly a participatory process.⁸⁶ Unrelenting swathes of settlers arrived and the spirit and letter of the alliances were indeed put to the test as Six Nations' land became increasingly desirable. The ruling class of Canada leaned heavily on British constitutional concepts: the 'rule of law,' which provided a justifying discourse for taking over other people's lands as well as rules to which everyone is subject; and 'parliamentary sovereignty,' which was later inscribed in the preamble to the *Constitution Act, 1867*.⁸⁷

Two main factors influenced the outcome of land title disputes on the Grand River lands: an essentially unenforced formal system for land acquisition by settlers, and a colonial native land policy still in the making, poorly understood by Upper Canadian officials, and deliberately hedged in communications to Six Nations. Though the regulation of an influx of nearly one million people between 1800 and 1851 would have been difficult with even the best of intentions, "the government's professed inability to protect Indian lands from squatters belies both logic and reality, a fact the Six Nations pointed out at the time."⁸⁸ The result was chaos which never seemed to favour the Six Nations, thanks to the political repercussions which would have resulted from rooting out 'innocent settlers' increasingly squatting on Six Nations lands and isolating their settlements stretched out along the Grand.⁸⁹ It is impossible to believe that settlers in the Upper Canada of the 1840s could have been ignorant of the rules for obtaining written patents to obtain land: in fact, squatters relied on the unwillingness of the colonial government to remove them and assumed that eventually they would get legal title to their lands, a case of unwritten policy

⁸⁴ Porter, "Building a new longhouse," 900.

⁸⁵ Barsh, "Canada's Aboriginal peoples," 2.

⁸⁶ Venne, "Understanding Treaty 6."

⁸⁷ McNeil, "Envisaging constitutional spaces for Aboriginal governments," 114.

⁸⁸ Harring, *White man's law*, 40.

⁸⁹ Johnston, "The Six Nations," 178; Johnston, *The valley of the Six Nations*, xlv.

belying official law.⁹⁰ The transfer of power from imperial to provincial authorities made it even easier to separate the Haudenosaunee from their land, and the Indian department under Samuel Jarvis was known for its fraudulent accounting and theft of First Nations' trust funds.⁹¹ Tales abound of the honoured founders of Brantford and Caledonia fraudulently obtaining land, often directly depriving the Six Nations families and community of promised income as a result.⁹² Six Nations surrendered land for the town plot of Brantford in 1829, but as Brantford and Caledonia grew, land was increasingly taken without payment;⁹³ much remains under formal claim today.⁹⁴ Further complicating the issue were distinctions often made, without legal basis, between 'deserving' and 'undeserving' squatters, rewarding with legal title those who immediately built houses and fences from those who merely stole timber or kept bawdy houses on the land.⁹⁵

Not only was much Six Nations land gradually stolen over time, monies from land sales that actually made it to their trust funds were managed by Indian officials without consultation of the Confederacy Council. For instance, thousands of Six Nations' dollars were secretly invested in the Grand River Navigation Company designed to bring in more settlers, even as the system of locks and canals directly flooded Six Nations lands and ruined their fishery. When the company bankrupted, nearly all of Six Nations' annuity funds were wiped out with it.⁹⁶ The British also ended 'present-giving' ceremonies which had marked indebtedness to First Nations for their lands. Six Nations resented the termination of this manifestation of their distinct status in colonial society, which marked the fact that the Crown needed Six Nations less as military allies than when settler populations were low.⁹⁷ Despite British failures to the Covenant Chain, Six Nations mobilized hundreds of warriors to fight in support of the Crown during the war of 1812 and the 1837-1838 colonial uprising and suffered heavy casualties, indications of the profundity with which both the Crown alliance and warrior roles were regarded in Six Nations society.⁹⁸

⁹⁰ Hill, "The clay we are made of," 290; Haring, *White man's law*, 45.

⁹¹ Williams and Nelson, *Kaswentah*, pt. iii.

⁹² Haring, *White man's law*, 45.

⁹³ Hill, "The clay we are made of," 292.

⁹⁴ See Six Nations Lands and Resources, *Land rights, financial justice, creative solutions*

⁹⁵ Haring, *White man's law*, 49.

⁹⁶ Haring, *White man's law*, 58; Hill, "The clay we are made of," 305-308.

⁹⁷ Johnston, *The valley of the Six Nations*, lxxxvii; Haring, *White man's law*, 59.

⁹⁸ Johnston, *The valley of the Six Nations*, lxxiii; Haring, *White man's law*, 59.

By 1836, the British Colonial Office in London was forced to conduct the first of many enquiries into failing native policies in the colonies, prompted by widespread reports of squatting on and theft of native lands, as well as often violent removal of the people living there.⁹⁹ The report recommended that *official* colonial policy actually be *implemented* overseas: that Indigenous people be accorded full land 'rights' according to the British definition, and that the generosity of 'British justice' be extended to them as to white settlers. Further reports in 1840 and 1844 confirmed that reserves were overrun with squatters, thousands of dollars of Indian trust funds had disappeared, and complaints from Indians abounded: for all intents and purposes, they had been abandoned by their former allies.¹⁰⁰ Despite decades of documented complaint by Six Nations, settlers made further inroads. Coinciding with Caledonia's boom and growth years, the government communicated to Six Nations its inability (refusal) to protect their lands, and proposed that Six Nations dispose of the majority of the remainder and consolidate from their separate communities along the Grand into a compact 'reserve.'¹⁰¹ In as many words, Samuel Jarvis, Chief Superintendant of Indian Affairs, explained that the government could not be expected to evict 2000 squatters.¹⁰² Six Nations saw through the abandonment to its goal of forced sales; Jarvis, however, propped up the small group that favoured selling lands.¹⁰³

The protests of and petitions against a purported 'general surrender' of land on January 18, 1841, signed in Kingston without the full Council's authority, began immediately: many Six Nations members maintained that the small group of chiefs who agreed to the sale were coerced, deceived and intimidated by the government into this plan. Petitions were immediately sent to government authorities, prompting an inquiry commissioned by the Governor General in 1843, which held for the surrender and reduced Six Nations lands to about five percent of the original

⁹⁹ Harring, *White man's law*, 24.

¹⁰⁰ *Ibid.*, 31.

¹⁰¹ According to Harring, the term 'reserve' is misleading because the Six Nations do not view their land this way, and the term was not part of the original Haldimand Grant. The word has legal meaning implying 'reservation' of lands not sold in the treaty process, but Six Nations' situation is unique from that of other First Nations living within Canada. However, later the Canadian government passed legislation applying to reserves which they considered to apply to Six Nations as well; in this sense the term is used (*White Man's Law*, 311).

¹⁰² Johnston, "The Six Nations," 178; Harring, *White man's law*, 52.

¹⁰³ Harring, *White man's law*, 53.

Haldimand Tract.¹⁰⁴ The challenge to the legitimacy of this surrender continues today, figuring hugely in the Caledonia land dispute. According to the Six Nations web site,

On January 18, 1841, the Crown purported to take a surrender from Six Nations even though this document contained only six Chief Signatures and did not identify any specific lands. Immediately after the surrender, beginning on February 4, 1841, then again on July 7, 1841 and June 24, 1843, Six Nations sent petitions disputing the surrender... On December 18, 1844, the Crown purported to take surrender from Six Nations... After 1845, despite the clear wishes of the Six Nations not to sell the land, the Plank Road and surrounding lands were patented in fee simple and sold to third parties. Six Nations did not consent to any sale of the lands on or surrounding the Hamilton Port-Dover Plank Road.¹⁰⁵

The reserve eventually confirmed in 1847 forced the Six Nations to abandon their separate communities, cleared fields, and buildings along the river and consolidate on 22,000 acres on the south side of the Grand River. Its establishment was difficult, given opposition from within the Six Nations, occupation by squatters initially refusing to leave (it cost the Six Nations tens of thousands of dollars to pay for “improvements” made to the land even after eviction notices had been posted¹⁰⁶), and the economic sacrifice of homes and villages along the river. One hundred-acre allotments were made to each family, though lands continued to be communally owned and governed,¹⁰⁷ as were resources such as timber, sand, sulphur springs, gravel, prey animals, and fish.¹⁰⁸ The new settlement also included some white, mixed marriage, and black families with friendship and kinship ties with the Six Nations: the chiefs, in keeping with traditional land-sharing values, “saw no need to deny them a place in the new community.”¹⁰⁹ The distribution of individual plots was also seen as a way of proving Six Nations ownership to colonial authorities.¹¹⁰ A “unified reserve identity” increasingly thickened due to the now international quality of the smaller reserve lands,¹¹¹ and the Haudenosaunee at Six Nations adjusted to the new environment by making a variety of social, political and economic adaptations to their clan system.¹¹²

¹⁰⁴ Hill, “The clay we are made of,” 308-311; Johnston, “The Six Nations,” 178; Williams and Nelson, *Kaswentah*, iii.

¹⁰⁵ Six Nations Lands and Resources, “Backgrounder: the Six Nations Plank Road claim in brief.”

¹⁰⁶ Weaver, “The Iroquois: the consolidation,” 180-185.

¹⁰⁷ Hill, “The clay we are made of,” 316.

¹⁰⁸ Hill, “The clay we are made of,” 350,352; Weaver, “The Iroquois: the consolidation,” 188.

¹⁰⁹ Weaver, “The Iroquois: the consolidation,” 185.

¹¹⁰ Doxtator, “What happened to the Iroquois clans?,” 247.

¹¹¹ Hill, “The clay we are made of,” 300.

¹¹² Doxtator, “What happened to the Iroquois clans?,” 235.

Colonial landscapes

The Haudenosaunee continued to declare autonomy and treated the relationship with the Crown as one of alliance,¹¹³ despite British court rulings stating that Indians are subjects of the British Crown, and that there cannot be a sovereign state within a sovereign state.¹¹⁴ However, the reciprocity relationships of the Two Row Wampum and the Covenant Chain, entered into with mutual expectations of benefits such as exchange of goods and military assistance, gradually deteriorated as the Upper Canadian government determined that the Six Nations were no longer the economic and military assets that they had been in early settler days.¹¹⁵ Today, thanks to both to legislative decisions made in the Canada of former years, and convictions that have arisen as a result, all aspects of Haudenosaunee sovereignty are threatened:

the degree to which Haudenosaunee people *believe* in the right to define their own future, the degree to which Haudenosaunee people have the *ability* to carry out those beliefs, and the degree to which the sovereign actions of the Haudenosaunee nations are *recognized* both within the nation and by the outside world.¹¹⁶

The sole reference to Aboriginal peoples in Canada's 1867 *Constitution* was Section 91(24), which authorized Parliament to enact laws in relation to "Indians, and lands reserved for the Indians." The *Indian Act* specified the provinces' powers to make laws applying to Indians, subject to federal approval. Thus, the only question was *which* level of Canadian administration held authority in different cases, not *whether* the government held authority in the first place.¹¹⁷ Parliament permits itself to treat native people differently than non-native people under section 91(24), but to treat them in the same ways under laws passed pursuant to other heads of federal power.¹¹⁸ However, the *Royal Commission on Aboriginal Peoples* points out that "the terms of the Canadian federation are found not only in formal constitutional documents governing

¹¹³ Williams and Nelson document incredible continuity in these assertions of sovereignty: a few examples include a visit to Queen Anne in 1710 during which the Haudenosaunee were treated as allies and leaders, a 1788 visit to London by Joseph Brant demanding a proper deed to the Grand River lands, and a delegation in 1930 which the British Parliament refused to greet due to Canadian protests.

¹¹⁴ Bourgeois, "The Six Nations: a neglected aspect of Canadian legal history," 260.

¹¹⁵ Dextator, "What happened to the Iroquois clans?," 144; Hill, "The clay we are made of," 324.

¹¹⁶ Porter, "Building a new longhouse," 921.

¹¹⁷ Macklem, *Indigenous difference and the Constitution of Canada*, 13.

¹¹⁸ Macklem, "First Nations self-government and the borders of the Canadian legal imagination," 423.

relations between the federal and provincial governments but also in treaties and other instruments [such as the Two Row Wampum and Covenant Chain] establishing the basic links between Aboriginal peoples and the Crown.”¹¹⁹

Early case law began to explicate ideas relating Indigenous land and sovereignty; for instance, *St. Catherine's Milling and Lumber Co v. The Queen* (1889) indirectly addressed Aboriginal land title in determining whether Ojibway land ‘surrendered’ to the Queen had become the property of the provincial or the federal government. The Privy Council sourced the Ojibway’s “prior possession of their lands” in the *Royal Proclamation*, dependent on the sovereignty and protection of the British Crown,¹²⁰ recognizing First Nations’ title to unceded lands but neglecting the opportunity to clearly set out the rights of Indians in Canada.¹²¹ In short, the court ruled that the Crown had proprietary ownership of land even *before* treaties were signed, leaving Indian title a mere “burden” on Crown title.¹²² The racism inherent in the court’s declarations regarding Indian title without representation of First Nations themselves is astonishing.¹²³

The 1884 *Indian Advancement Act*, denounced by the Haudenosaunee Confederacy Council, sought to replace traditional governments with elected band councils and designated Canadian Indian Affairs officials as council superintendents.¹²⁴ The Confederacy also disputed provisions making it illegal to raise money for the purpose of advancing legal claims against Canada.¹²⁵ Though the council was willing to work with the Indian Department and/or the Governor General as representatives of the Crown, according to the treaty relationship, Six Nations asserted independence through delegations, petitions, claims, and by continuing to govern its own affairs as much as possible. For instance, a letter sent to the Governor General in 1890 in protest of that year’s version of the *Indian Act* recalled the treaty relationship and the existence of the Haudenosaunee’s own laws and customs. The Confederacy reacted to the First World War by voting \$1500 towards the patriotic fund and offered to enlist their young men, but when Ottawa

¹¹⁹ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, vol. 3.

¹²⁰ Flanagan, *First Nations?*, 62; Russell, *Recognizing Aboriginal title*, 113.

¹²¹ Clark, *Native liberty, crown sovereignty*, 12; Haring, *White man's law*, 140.

¹²² Coyle, *Addressing Aboriginal land and treaty rights*, 20.

¹²³ Haring, *White man's law*, 147.

¹²⁴ Hill, “The clay we are made of,” 327,361; Weaver, “The Iroquois: the Grand River Reserve,” 234.

¹²⁵ Williams and Nelson, *Kaswentah*.

refused to recognize Six Nations' standing as allies, the Council reaffirmed allegiance to Great Britain and decided to officially support recruitment only if requested by the King.¹²⁶ In a later declaration of autonomy, the Council authorized its Speaker, Deskaheh (Levi General) to alert the International Court of Justice to the Haudenosaunee's plight. He travelled to London in this effort, giving speeches with messages such as this one in August of 1923:

We would not have consented to take Canada's franchises if she had asked us politely to do so... we are very willing to remain allies of the British against days of danger, as we have been for 250 years ... but we wish no one-sided alliance, nor will we ever be subjects of another people, even of the British if we can help it.¹²⁷

Deskaheh later travelled to Geneva to address the League of Nations with a similar message, but was told that this was a domestic issue and must be addressed as such; this pattern was repeated at other international meetings, including the drafting of the UN Charter at San Francisco.¹²⁸ As Six Nations' military importance decreased in inverse proportion to growing settler populations, policies of assimilation were increasingly promoted; by the 1870s, for instance, Canadian government officials were unable and uninterested in interacting with the Confederacy Council according to anything resembling Haudenosaunee protocol.¹²⁹

Following repeated assertions by the Confederacy Council of its responsibility to govern Six Nations people and lands, make laws, and appoint leaders, and the fact that Six Nations had never yielded its sovereignty either voluntarily or in war, the Indian Superintendant at Brantford advocated for the deposition of the unruly council.¹³⁰ In October of 1924, an Indian Affairs official read an order-in-council voiding the authority of the Confederacy Council and called for elections of the new band council. The Royal Canadian Mounted Police seized wampum strings and records and locked the Confederacy Council house; later, control was handed over to a Band Council of thirteen positions voted in with the support of only twenty-seven people.¹³¹ Though a

¹²⁶ Weaver, "The Iroquois: the Grand River Reserve," 245.

¹²⁷ Deskahe (Levi General), speech given in London, August 1923; as cited in Williams and Nelson, 1995.

¹²⁸ Unknown author, "Indians at San Francisco"; Russell, *Recognizing Aboriginal title*, 150.

¹²⁹ Williams and Nelson, *Kaswentah*, pt. ii.

¹³⁰ Doxtator, "What happened to the Iroquois clans?," 242; Hill, "The clay we are made of," 357-360, 379; Williams and Nelson, *Kaswentah*, ii.

¹³¹ Weaver, "The Iroquois: the Grand River Reserve," 248; Hill, "The clay we are made of," 388.

minority in the community had petitioned for an elected council,¹³² the Indian Department's primary motivation was the establishment of firm control. Considering that the community's desires were rarely taken into account in other issues, it is unlikely that the prompting of a political minority in Six Nations was the main reason for the change. The Department of Indian Affairs believed that it knew what was best for Native people, formulating and implementing policies without consultation, though "the Six Nations Indians not only opposed specific federal regulations, but actually rejected the authority of the department."¹³³ Six Nations' persistent claims to sovereignty went beyond those of many other Native peoples and were also advanced with force and resourcefulness by the Confederacy Council both in Canada and abroad, reflecting poorly on the Indian Department and Canada as a whole, and resulting in harsh responses including a permanent police presence at Grand River, the use of informers, and intimidation of sympathetic international governments by the British diplomatic corps.¹³⁴ An attempt in 1959 to re-take the Council House and officially reinstate the Confederacy was crushed by the RCMP. As Susan Hill explains, "While the Government of Canada could not tell the Six Nations people who their leaders were, they could decide who *they* were going to deal with- and who they would allow to access the trust funds of the Six Nations."¹³⁵ Today, both councils continue to exist; the Confederacy Council, though driven underground for years, continued to hold meetings in the Onondaga longhouse – meetings not recognized by the Canadian government.¹³⁶

Despite various laws and Indian Acts passed over the years, it gradually became clear that Aboriginal peoples simply were not adopting the ways of the newcomers as completely as the colonial administration had hoped. A final attempt at "integration" was made in the 1969 federal White Paper. According to Dale Turner, though the White Paper sought to "legislate Indians into extinction," it instead ironically catalyzed a new intensity in Aboriginal activism, eventually culminating in the recognition of 'existing Aboriginal rights' in the 1982 Constitution Act.¹³⁷ The defeat of the White Paper indicated *formal* overthrow of a longstanding paradigm of assimilation:

¹³² For a detailed account of the marginal Dehorners movement at Six Nations, see Titley, 1986.

¹³³ Titley, *A narrow vision*, 134.

¹³⁴ Ibid.

¹³⁵ Hill, "The clay we are made of," 389.

¹³⁶ McMillan and Yellowhorn, *First Peoples in Canada*, 95; Weaver, "The Iroquois: the Grand River Reserve," 250.

¹³⁷ Turner, *This is not a peace pipe*, 12; Bogart, *Good government?*, 101; Usher, Tough, and Galois, "Reclaiming the land: aboriginal title, treaty rights and land claims in Canada," 123.

“If the old policy was to be pursued, it would have to be indirectly, by subterfuge.”¹³⁸

Constitutional thought gradually began to turn towards the notion of a permanent Aboriginal presence in Canada and what that meant for the relationships between societies. As discussed in the following chapters of this thesis, these conversations play crucial roles in the shaping of Canadian geographical and political space, both past and present.

The 1973 *Calder* case addressing Nisga’a land title in British Columbia produced a comprehensive land claims policy for Aboriginal groups whose rights had not been extinguished by treaty. With this case, the burden of proof shifted, requiring the government to disprove title when claims are lodged.¹³⁹ Crucially, the Supreme Court also held that the manner of sovereign territory acquisition is not immune to review by the courts.¹⁴⁰ And Canada was one of the first of the English settler countries to *formally* recognize the rights of Indigenous peoples in its patriated Constitution (1982), principally in Section 35(1): “The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.” The addition of the word ‘existing’ was a last minute addition designed to win support from those hoping it would reduce rights to those actually being enjoyed in 1982.¹⁴¹ By enshrining rights without defining them, the *Constitution Act* launched a procession of jurisprudence, which, though gradually closing in on justice for First Nations, remains hazy in its final effect. It is now impossible for the judiciary to avoid assessing Aboriginal rights and title: legal positivism holds that “whether Aboriginal people enjoy a unique constitutional relationship with the Canadian state depends solely on whether the text and structure of the constitution as interpreted by the judiciary support such a claim;”¹⁴² surely there must be some substance to the rights, or there would be no reason to include the text in the Constitution.¹⁴³ However, Canadian courts continue to approach resolution of Aboriginal title as a “lawful obligation,” rather than on the basis of justice or morality.¹⁴⁴

¹³⁸ Cairns, *Citizens plus*, 67.

¹³⁹ Russell, *Recognizing Aboriginal title*, 253, 267.

¹⁴⁰ Borrows, *Recovering Canada*, 119.

¹⁴¹ Russell, *Recognizing Aboriginal title*, 236.

¹⁴² *Ibid.*, 12.

¹⁴³ Haring, *White man's law*, 5.

¹⁴⁴ Hylton, *Aboriginal self-government in Canada*, 50.

Section 35(1) rights were addressed by both the *Meech Lake Accord*, which would have recognized Quebec's demands for distinct nation status but ignored Aboriginal aspirations, and the defeated *Charlottetown Accord*, which proposed to recognize Aboriginal right to self-government.¹⁴⁵ In 1984, the Supreme Court of Canada held in *Guerin* that Native title is sourced in pre-contact Native society, and legally mentioned for the first time the fiduciary relationship between Canada and Aboriginal peoples which finds its roots in the *Royal Proclamation* and the treaties.¹⁴⁶ The Supreme Court in *Simon* (1985) concluded that treaties are neither contracts nor international agreements, but instead *sui generis* agreements conveying the unique status of Aboriginal peoples which require liberal interpretation of intentions at time of treaty.¹⁴⁷ In *Sparrow* (1990), the Supreme Court decided that s. 35 provides a strong foundation for the recognition of Aboriginal rights, including an examination of the history involved in the rights¹⁴⁸ and "a generous, liberal interpretation of the words in the constitutional provision" requiring any law interfering with the exercise of Aboriginal rights to meet a strict test of justification.¹⁴⁹ However, it also reaffirmed the standard colonial view that sovereignty, legislative authority, and underlying title to Aboriginal lands were vested in the Crown; though it could have used *Sparrow* to give Aboriginal peoples absolute power over Aboriginal and treaty rights, it failed to do so out of fear of a legal vacuum that might occur if s. 35 were interpreted as excluding all federal regulatory power.¹⁵⁰ *Sparrow* determined that unlike most government actions that violate the Constitution, those that contravene Aboriginal treaty rights may be rationalized and permitted.¹⁵¹ In the landmark *Delgamuukw* (1997), the Supreme Court rendered the most liberal interpretation of Aboriginal title the common law world has yet seen, including recognition of full communal property ownership, the right to participate in activities currently integral to Aboriginal society, as long as said activities are not irreconcilable with historical attachments to lands,¹⁵² and constitutional protection for Aboriginal territorial interests. The decision called for political

¹⁴⁵ McNeil, "Envisaging constitutional spaces for Aboriginal governments," 97.

¹⁴⁶ *Ibid.*, 108.

¹⁴⁷ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, 2; Macklem, *Indigenous difference and the Constitution of Canada*, 144.

¹⁴⁸ Haring, *White man's law*, 5; Macklem, "First Nations self-government and the borders of the Canadian legal imagination," 446.

¹⁴⁹ Macklem, *Indigenous difference and the Constitution of Canada*, 58; Russell, *Recognizing Aboriginal title*, 242.

¹⁵⁰ McNeil, "Envisaging constitutional spaces for Aboriginal governments," 95, 133.

¹⁵¹ Coyle, *Addressing Aboriginal land and treaty rights*, 25.

¹⁵² Russell, *Recognizing Aboriginal title*, 342.

accommodation and compromise;¹⁵³ however, “the goal of negotiations was ‘the reconciliation of the pre-existence of aboriginal societies with the *sovereignty* of the Crown.’”¹⁵⁴

Another milestone was reached with the forging of the *Nisga’a Final Agreement* (NFA) in 2000 between British Columbia and the Nisga’a people, who gained fee simple title to 8-9% of their traditional lands, as well as paramount legislative sovereignty over federal and provincial laws in many aspects of self-government, including management of lands, constitution, and language. The B.C. Supreme Court held that the formation of Canada in 1867 did not extinguish the right of Aboriginal peoples to govern their own societies.¹⁵⁵ The NFA appears to contravene the long-held principle that all legislative authority is exhausted by the federal and provincial governments, making flexibility for three levels of government more possible: “At best, text, structure and precedent support the position that it is unnecessary to amend the constitution to implement the NFA. At worst, they are ambiguous on this question.”¹⁵⁶ Finally, a series of cases, notably *Haida Nation v. British Columbia* (2004), *Taku River Tlingit First Nation v. British Columbia* (2004), and *Mikisew Cree First Nation v. Canada* (2005), rendered judgments requiring the government to “consult and accommodate” First Nations on issues which may impact their lands and rights, even when land is currently held up in the formal claims process. The courts are increasingly rendering wider-ranging interpretations of Aboriginal and treaty rights under the Constitution, including the right to consultation and accommodation. Questions of land title and sovereignty surface over and over.

The Douglas Creek Estates land is one of the places that hangs in the balance, as the Six Nations have been protesting the 1841 purported general surrender since 1841, and waited until 2006 (the start of the reclamation) for the resulting Hamilton-Port Dover Plank Road claim filed in June 1987¹⁵⁷ under Canada’s Specific Claims process to be addressed. Continuing development on the Plank Road lands was weakly addressed by the non-binding 1996 Grand River Notification

¹⁵³ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, 2; Macklem, *Indigenous difference and the Constitution of Canada*, 90.

¹⁵⁴ Flanagan, *First Nations?*, 63, italics mine.

¹⁵⁵ Russell, *Recognizing Aboriginal title*, 342.

¹⁵⁶ Macklem, *Indigenous difference and the Constitution of Canada*, 282.

¹⁵⁷ Six Nations Lands and Resources, *Land rights, financial justice, creative solutions*, 14-15.

Agreement,¹⁵⁸ in which Six Nations and local, provincial, and federal governments, agreed to inform each other of actions that may affect the environment within the “Notification Area.” It had no power to stop development pending resolution of Six Nations’ claims. The Douglas Creek Estates was a last straw for Six Nations protestors tired of seeing lands gobbled up while claims languished in Canada’s backlogged system. Protestors encourage the developers themselves to join the protest, since the problems stem from federal (in)action and affect both Six Nations *and* surrounding settler societies. Kanonhstaton, ‘the protected place’, as the land is now known, still hosts Six Nations guards, and awaits decisions promised in the negotiations process.

The federal government has for roughly two hundred years failed to address the many instances of thefts of unsurrendered Six Nations land, non-payments for validly surrendered land, and misappropriation of annuity funds. By ignoring Six Nations’ many efforts to gain attention for these frauds both within and outside of formal land claims processes, Canada has also flouted the history of treaty relationship between the Crown and the Haudenosaunee. These accounts have been, and continue to be, suppressed and denied through discourses emphasizing ‘the rule of [Canadian property] law’, resulting in geographic-cultural spaces which have been so wiped clean of history and so profoundly inscribed by continuing colonial power relations that the Caledonia land reclamation is rendered incomprehensible to passersby. It is these discourses that I, as one of these eyewitnesses, seek to address.

My place in the story

I am the genetic product of several generations of American-Dutch immigrants on my mother’s side, and am just two Canadian generations away from the Netherlands on my father’s. I was born in 1982 just a few months after the Canada Act was signed by Queen Elizabeth II and our newly minted Constitution came into effect, and I have always claimed my Canadian-ness unabashedly. But my world was Dutch Reformed: I was peered by fellow grandchildren of immigrants steeped in the theology of Calvin, the politics of conservatism, and an ethics championing family values and honest hard work. The *geography* of my upbringing was triangulated in a rural home assigned an address from Caledonia (twelve kilometres south-east),

¹⁵⁸ Indian and Northern Affairs Canada, “Background to the Grand River Notification Agreement,” 1.

a phone number from the town of Ancaster (ten kilometres north-east), and for tax and voting purposes associated with Brantford (fifteen kilometres west). *Officially*, I grew up very nearly centred between these three places, but in actuality, our home was (and is) only one left-hand turn away from the Six Nations Indian Reserve, just seven kilometres south. I attended school in Hamilton and church in Ancaster, and I ‘knew’ very little ‘about’ Six Nations. Walking in the fields behind our house, we would find sharpened stones that my father would identify as arrowheads: thus I was aware that other people *used to* live there. In the years before status cards were regularly checked, I remember filling the car’s tank with tax-free gas at Six Nations: thus I knew that the rules were different. It is not that negative things were often said about Six Nations: generally speaking, little attention was paid to the nearby reserve within the context of my world.

Beginning perhaps in secondary school but continuing in my undergraduate studies, I gradually became more aware of the complexity of Canada’s history and relationships with the Nations who first lived on Turtle Island. By the time the *long-lit* fuse of Six Nations’ unaddressed land-related disputes with Canada finally detonated in 2006, I was inclined to view the situation with suspicion that there was more to the story than was commonly known. Deep-rooted differences were palpable: I became curious about the possibility for mutually satisfactory resolution. Wherein these differences? How do Six Nations’ conceptions of the dispute differ from those of surrounding settler societies, and why do those disparities exist? How do histories and geographies intertwine to form the spaces and ideas that we now perceive as ‘commonplaces’? I address this thesis primarily to Canada’s settler societies, in an effort to both challenge and make use of my own ignorance. I strive to be candid, though I can make no claims to ‘the truth.’

The frameworks and knowledges that I and my settler-descendent peers take for granted are crucial to the ongoing projects which demarcate both abstract and physical Canadian space. The discourses that serve to reaffirm national imaginaries of innocent multiculturalism, individual rights, progressive development, and “peace, order, and good government” through rule of law construct spaces of normalcy excluding those who dare challenge their borders. And the conversations carried out never exist in isolation but are, of course, shaped by long histories of entanglement and difference, legal and moral justificatory regimes, and physical practices which

stake claims to land and rights. To answer the questions I have set out in this thesis, then, I undertook a discursive analysis of the public conversations constituting this dispute over land.

Critical discourse analysis takes its starting point from social theory, especially Foucault's formulations of "power" which conceptualize discursive regimes not only as perspectives depending on identities and power situations, but as projective imaginaries representing possible worlds and tied into projects for *change* in particular directions.¹⁵⁹ Foucault asks who is entitled to speak a certain language, and in what situations? How do people classify reality into the 'normal' or 'abnormal', 'acceptable' or 'unacceptable' through language?¹⁶⁰ Though nothing guarantees acceptance of proffered meanings, producers of texts have more power than readers, and they at all times envision a project, whether to entertain, inform, or propagate a viewpoint; furthermore, contexts are inerasable, existing always together *with* the author or the text rather than before or outside. Discourse analysis takes place within the larger sphere of social and cultural research, concerned as it is with "how discourses help to produce the very categories, facts and objects that they claim to describe."¹⁶¹ The discourses enacted by Canadian representatives in the Caledonia dispute, then, have significance for the project of shaping exclusionary Canadian space. As will become apparent in Chapter 2, these discourses – which categorize Caledonia as a space of normalcy, locate Six Nations protesters outside of 'the law' and First Nations people 'under federal jurisdiction,' assume the exclusive right to designate geographic areas of growth and development, and present Canadian conceptions of economy and justice as universal – create worlds which classify, designate, and mould space without attention to Six Nations' very different epistemologies, histories, and worldviews.

As an academic approach to language and power, discourse analysis was spearheaded by Norman Fairclough,¹⁶² Teun van Dijk¹⁶³ and others. Deliberately declaring a social commitment and an

¹⁵⁹ Foucault, *L'Ordre du Discours*; Foucault, *Discipline and Punish*

¹⁶⁰ The term 'text' is used broadly to apply to various forms and verbal and written language as well as, for instance, websites or television programs which also incorporate other elements as part of their overall message.

¹⁶¹ Foucault, *The archaeology of knowledge*, 49.

¹⁶² Especially Norman Fairclough, *Language and Power* (London: Longman, 1989).

¹⁶³ See, for instance, van Dijk, "Principles of critical discourse analysis"; van Dijk, "Discourse semantics and ideology."

interventionist role in research, discourse analysis seeks to analyze “opaque as well as transparent structural relationships of dominance, discrimination, power and control as manifested in language,”¹⁶⁴ especially as enacted, re-created, and legitimated by élite groups and institutions.¹⁶⁵ Power relations are sustained and animated by discourse regardless of individual speakers’ conscious or unconscious intention. A discursive analysis of the conversations clashing in Caledonia, then, has much to say about colonial relationships of both assumed and legislated authority, which continue to operate and shape Canada today.

Specific methodologies and engagements with academic literatures vary widely, from closer foci on linguistic features to broader examinations of discourses aiming to trace intertextual histories of ideas and ideologies. Fairclough, my primary conduit to the theory behind discourse analysis,¹⁶⁶ oscillates between focus on specific texts and textual features and overall ‘orders of discourse.’¹⁶⁷ Taking as his manifesto the belief that discourse is socially *constitutive* - especially within modern ‘knowledge economies’ - as well as socially *conditioned*,¹⁶⁸ Fairclough views struggles between political forces as at least partly consisting of claims of universal status for opposing representations of the world.¹⁶⁹ Though textual features such as vocabulary are often most obvious, Fairclough contends that meaning-making - the structuring of the world - depends on both explicit (inclusions) and assumed (exclusions) elements of texts, as well as their practical figuration in social life; he urges framing textual analysis in ethnography in order to justify claims that texts are purposely doing ideological work.¹⁷⁰

Likewise, James Paul Gee’s¹⁷¹ methodologies regard language-in-use as everywhere and always ‘political’, inevitably participating in the distribution of social goods, which he defines as anything

¹⁶⁴ Blommaert and Bulcaen, “Critical discourse analysis,” 448.

¹⁶⁵ van Dijk, “Principles of critical discourse analysis,” 249.

¹⁶⁶ Mainly: Norman Fairclough, *Analysing discourse: textual analysis for social research* (London; New York : Routledge, 2003).

¹⁶⁷ *Ibid.*, 1.

¹⁶⁸ Blommaert and Bulcaen, “Critical discourse analysis,” 447-448.

¹⁶⁹ Similarly, Ernest Laclau and Chantal Mouffe theorize the political process in terms of the ‘logic of difference’, which creates differences and divisions, and the ‘logic of equivalence’, which works to subvert them. (*Hegemony and socialist strategy: towards a radical democratic politics* (London: Verso, 1985)).

¹⁷⁰ Fairclough, *Discourse and social change* Fairclough himself works with Hallidayan Systemic Functional Linguistics (e.g. recently, Michael Halliday, *An Introduction to Functional Grammar*, London: Edward Arnold, 1994), a grounded approach which views language and grammar as socially shaped, in contrast to Noam Chomsky’s innate ‘universal grammar.’

¹⁷¹ Gee, *An introduction to discourse analysis* .

believed to be a source of value, power, or status, including such concepts as being ‘normal’, ‘right’, or ‘real.’ Methods and theory always go together, Gee contends; his discourse analysis melds small-d ‘discourse’, or language-in-use, with ‘Discourse’, in which discourse and non-language ‘stuff’ work together to enact specific actions, identities, and largely unconscious and oversimplified theories about the way the world works that we constantly access in order to be able to get on efficiently with our daily lives.

With these perspectives in mind, this study undertakes a dissection of the public communications and negotiations related to the dispute over the Douglas Creek Estates lands, exploring the ways in which various stakeholders reveal underlying epistemologies and ontologies through the information that they release and the statements that they make. I seek to expose historical cultural imaginaries which manifest themselves in the dispute and destabilize the commonsense logics that have resulted in naturalized past and present power relations. Broadly speaking, I first approached the public record with the question, “How have values regarding land as a resource been acted upon and publicly elucidated in the Douglas Creek Estates land dispute communications and negotiations, and what insights can be generated from this for Canada- Six Nations relationships?” In selecting certain categories and themes for in-depth discursive analysis in Chapter 2, I show how the dispute has been structured in ways that (re)produce Euro-Canadian worldviews and validate racialized, exclusionary space-making projects.

The qualitative research¹⁷² methods utilized involve “an interpretive, naturalistic approach to the world,” studying “things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them”¹⁷³ and emphasizing both the socially constructed nature of reality and the relationship between the researcher and what is studied.¹⁷⁴ The research can be viewed as a ‘case study,’ in which a “‘how’ or ‘why’ question is being asked about a contemporary set of events over which the investigator has little or no control.”¹⁷⁵

¹⁷² Though I cannot claim to play a significant role in ‘research’ from the Indigenous world’s perspective as outlined by Linda Tuhiwai Smith in her *Decolonizing Methodologies*, I hope that my work can contribute to rather than detract from the projects of critical reading, representing, reframing, and examining histories and knowledges that she outlines as important parts of the ongoing decolonizing process.

¹⁷³ Denzin and Lincoln, “Introduction: the discipline and practice of qualitative research,” 3.

¹⁷⁴ Ibid., 8.

¹⁷⁵ Yin, *Case study research*, 9.

Consistent with grounded theory,¹⁷⁶ an inductive approach that draws ideas, and patterns out of collected data and synthesizes them to articulate theory, this analysis was anchored in the stories of Caledonia/Canada and Six Nations. Conclusions are drawn from endeavours to let the data speak as much as possible, and are not intended to serve as universal truths.

However, given the currency of the dispute and the increasing salience of First Nations land and resource issues across the country, I also use my analysis as a launching point from which to generate insights regarding Canadian-First Nations relationships more generally in Chapters 3 and 4. In this sense, Caledonia provides an ideal microcosm: the (apparently) bounded geography of the place under dispute, the long history of interactions with Six Nations, and the considerable size and influence of Six Nations itself work together to highlight land and resource issues in a powerful way. The discourses enacted around this dispute are illuminative not only in terms of what has made this conflict in Caledonia so fractious, but also as an illustration of the erasures and omissions which have shaped the geography and politics of the Canadian nation.

Background research involved consideration of cultural and legal history, societal beliefs and values, while tools of investigation were primarily those of ethnography and discourse analysis, using publicly distributed texts as my database. And, the bodies of literature to which my analysis relates include those of cultural anthropology, critical geography, racism studies, environmental justice, law, and political science.

Integrating social practice with theory is a highly ethnographic approach - Lehtonen¹⁷⁷ describes ethnography as the study of formations of meaning, examining how people live out their culture. Because discourse analysis and ethnography are data-driven, research approaches vary; however, the processes of sorting, coding, and analyzing data, identifying key themes and arguments, noting differences between texts addressing the same topic, and paying attention to what remains unsaid are widespread.¹⁷⁸ As explored in Chapter 2, the published record revealed more than 'simple' cultural, economic, or spiritual differences in ways of viewing land; though these are also manifested throughout, ongoing conversations deliberately invoking or squelching historical

¹⁷⁶ Babbie, *The practice of social research*.

¹⁷⁷ Lehtonen, *The cultural analysis of texts*, 143.

¹⁷⁸ Tonkiss, "Analyzing text and speech: content and discourse analysis," 380.

contexts of relationship, sovereignty, law and order, and orderly society were loud and clear. Rather than analyzing these themes in isolation from past and ongoing events in Caledonia, I seek to show how material happenings, always alongside and inseparable from the discourses which sustain and justify them, also endeavour to shape space according to particular knowledges and imaginaries.

I first researched the stories of the Haudenosaunee Six Nations and of the settler society in which they found themselves, engaging chronological ‘facts’ and the historical analyses that inevitably accompany them. Several sources were key in building the narrative which introduced this thesis: Rogers and Smith’s edited anthropological collection, *Aboriginal Ontario*; Charles Johnston’s collection of historical documents, *The Valley of the Six Nations*; Sidney Harring’s powerful *White Man’s Law: Native People in Nineteenth-Century Canadian Jurisprudence*; and Susan Hill’s *The Clay We Are Made Of: An Examination of Haudenosaunee Land Tenure on the Grand River Territory*, literally a ground-breaking work of Haudenosaunee land history.

To chart the discourses which both manifest *and* establish the parameters of the conversations in the dispute, I intentionally worked from unclassified texts such as newspapers, press releases, information pamphlets and posters, official position statements, letters, legislation, jurisprudence, documentary texts of an ‘advocacy’ nature, and statements of claim, to which an interested public is either directly exposed or could easily access. This approach was chosen for several reasons. Firstly, the public face of communication and negotiations is the one that is primarily used in shaping public opinion, which in turn can (fail to) provide impetus to address Aboriginal-Canadian differences. Secondly, Haudenosaunee people in general, and especially Six Nations, have been studied by anthropologists, historians, and legal experts for centuries. Though some of these research relationships have had positive aspects, Six Nations people are understandably wary of possible misrepresentation and appropriation of cultural and intellectual property. In addition, in-depth interviews with select individuals in the Caledonia and Six Nations communities would have simplified personal agenda-pushing on both ‘sides,’ making a candid analysis more difficult. Finally, for this study of the public discourses constituting a dispute over the resource of land, a much broader informational scope was appropriate than that which would

have been possible to generate from interviews limited by time constraints and availability, willingness, and especially 'representativeness' of possible informants.

However, prior to delving into the documentation which served as the database for my analysis, I introduced myself and my research to key players likely to be represented in the research, including the media contact for the provincial police, the mayor of Caledonia, the principal Six Nations spokesperson for the reclamation, the leading Six Nations land claims researcher, staff at both local newspapers, and other local 'experts' and interested members of the public, especially those serving on advocacy committees of various kinds.¹⁷⁹ These individuals were of great assistance in pointing me towards possible resources for my research. University academic and Six Nations community member, Dr. Susan Hill, assisted in introducing me to key Six Nations players and discussed my research with the Six Nations ethics board, who determined that formal application was unnecessary due to the utilization of only public materials.

I bounded my archival research to a roughly two-year period, beginning in February 2006 when the protest first began, and ending in December 2007, by which time communications had palpably plateaued both in tone and volume. Newspapers were not approached from a media analysis perspective, affording instead a principal source of public statements and open letters from involved stakeholders. However, overall characterizations of coverage were both unavoidable and illuminative, and inevitably contributed to my analysis. Two small weekly papers, the *Tekawennake*, published at Six Nations, and the *Grand River Sachem* of Caledonia, provided extremely local community coverage. The *Brantford Expositor* is a much larger daily, though Brantford's location very near to Six Nations, well within the Haldimand Tract, and its extensive economic and social ties with the Six Nations community mean that the paper's writers and readership are also quite local in nature. The *Hamilton Spectator* publishes daily to a larger city located geographically, socially and historically more distant from Six Nations.

¹⁷⁹ Though key politicians, negotiators and leaders from both Canada and Six Nations will also figure largely in this thesis, I concluded that the extremely public nature of the roles they have chosen to assume rendered explicit conversations informing them of my research unnecessary, as well as difficult to arrange.

Though statements made to media and published in newspapers proved illuminative, more comprehensive and deliberately composed texts originating and disseminated more directly by their authors provided a different, equally valuable archive for analysis. I obtained these documents variously from web sites administered by people interested in the dispute, from offices such as the Six Nations Lands and Resources department, Canadian government web sites, the Caledonia and Brantford public libraries, the Woodland Cultural Centre in Brantford, in hard copy and as e-mails from people involved in various capacities in the dispute, at public meetings in which documents were distributed, and from Six Nations advocacy researchers. All texts examined in this study have either been deliberately publicly distributed with the intention of reaching as many people as the chosen communication medium would allow, or are of a clearly public nature, such as letters sent by governments involved, expressing positions typically also circulated in press releases. Though I was given unfettered access by various community members to many less public documents, most notably meeting minutes for the Canada-Six Nations negotiations, I have chosen not to directly utilize these texts in my analysis; however, they provided insights which served to confirm the more public face of the deliberations.

All told, research entailed examination of thousands of documents: the majority were short press releases, letters, and newspaper articles, while others, such as legal or historical reports, radio series, video documentaries, and legislative or strategic documents, were much longer. Exploring this volume of research material involved, in short, a lot of reading, coding, and aggregation of themes into workable systems for further and deeper analysis and linkages to historical and legal records. The texts work together to create coherent messages and discourses, and it is these imaginaries that I render. In a more practical sense, both discourse analysis methodologies¹⁸⁰ and ethnographic techniques¹⁸¹ (which overlap in many ways) proved useful in tackling the texts I collected.¹⁸² I moved from open coding, in which texts are read with an eye to highlighting and noting any and all ideas, themes, or questions that appear to arise, to more focused coding, in which a more fine-grained analysis is performed on certain texts with attention paid to themes

¹⁸⁰ Especially those as outlined in Fairclough, *Analysing discourse*; Gee, *An introduction to discourse analysis*

¹⁸¹ Emerson, Fretz, and Shaw, *Writing ethnographic fieldnotes*, 142-208.

¹⁸² A primary difference between my own research and most ethnographic studies is in the generation of the database studied: while ethnographers typically write their own fieldnotes based on their direct experiences, the texts I analyzed were written by others.

identified in open coding. As a guide, I utilized Gee's 'building tasks of language' framework,¹⁸³ enquiring as to each text's significance, the relationships, politics, identities, connections, and activities enacted within it, and the sign systems or 'languages' it privileges.

Coding the texts in this way differs from coding of quantitative data, which proceeds deductively, determining frequencies of events by fitting people's responses into pre-set categories. Open coding began simply by literally highlighting quotes, either physically or using a word processing program, to indicate groups represented by speakers. As I read, I identified prominent discursive themes and techniques, then gradually moved to sub-themes, with various systems of numbering and organization to keep track. Significant passages were noted because of their ability to succinctly sum up major concepts, provide a 'moral' to an anecdote, or even directly address the research questions posed to the archive.¹⁸⁴ My interest in answering a particular set of questions meant that certain concepts were of more salience, streamlining the coding process somewhat; however, texts surprised me in important ways, forcing me to rethink ideas with which I had unavoidably begun the research. In an iterative process of data consultation and reflection,¹⁸⁵ I re-referenced historical records to investigate significant concepts. In setting the thesis to screen and paper, I sought a narrative approach to reflect the paths of my research and the story itself.

Considerations of validity in the social sciences ask to what extent an instrument measures that which it is supposed to measure.¹⁸⁶ As with quantitative analyses, sample size and procedures are important: to this end, the bounding of the sample period, the combing of databases and physical papers to glean every newspaper article related to the dispute, and the 'snowball' sourcing of additional materials sought to ensure thorough coverage of the available texts. However, validity in discourse analyses, which argue that certain data support a given thesis or theme, is more often considered in terms of meronymy: the relation between the parts and the whole. Signifiers of validity include convergence (whether the analysis offers compatible and convincing answers to different questions of analysis); coverage (if the analysis can be applied to related sorts of data and make predictions in related situations), as well as linguistic details

¹⁸³ Gee, *An introduction to discourse analysis*.

¹⁸⁴ Rubin and Rubin, *Qualitative interviewing: the art of hearing data*, 205.

¹⁸⁵ Charmaz, "Grounded theory: objectivist and constructivist methods."

¹⁸⁶ Sproull, *Handbook of research methods: a guide for practitioners and students in the social sciences*, 74.

(whether the conclusions of the analysis seem to link to structural linguistic devices that manifestly can or do serve the functions described). Discourse analysis validity is not constituted by 'reflecting reality.' All analyses are of course open to further discussion and dispute.¹⁸⁷ My intention is to write a 'counter-story' that challenges Canadian spatial imaginaries of objective law and order, a nation and land shaped by ingenuous immigrants. According to Delgado,

Stories, parables, chronicles, and narratives are powerful means for destroying mindset – the bundle of presuppositions, received wisdoms, and shared understandings against a background of which legal and political discourse take place [...] Ideology – the received wisdom – makes current social arrangements seem fair and natural [...] Stories can shatter complacency and challenge the status quo.¹⁸⁸

My deeply implicated position in this dispute makes me want to go further, believing that "we participate in creating what we see in the very act of describing it."¹⁸⁹ As much as possible within the constraints of an academic thesis, I seek to tell a story, weaving empirical data with academic concepts to show how this dispute over land in Caledonia, Ontario is very much about the right to shape both political and physical landscapes. To that end, I began this chapter by introducing the reader to the basics of this dispute and to the Haudenosaunee people. In the subsequent account of the ongoing colonial histories which have so powerfully directed the relationship between settlers and First Peoples, I sought to demonstrate that the distribution of land and political power that we see before us today is not a given, but rather the result of an infinite number of decisions, practices, and relationships, shaped by certain ways of seeing the world. I conclude Chapter 1 by introducing my own position, both personal and conceptual research motivations, and the ways that I approached theory and text in order to write this account.

These overtures, deliberately ordered, provide essential context for the reader, who in Chapter 2 will encounter a detailed scrutiny of the public discourses and practices constituting this dispute in Caledonia. In telling the story of these conversations, I demonstrate that each party's choice of certain themes, phrases, and discursive strategies is deeply revelatory of underlying value systems and projects for shaping space. In Chapter 3, I link this discursive analysis to broader

¹⁸⁷ Gee, *An introduction to discourse analysis*.

¹⁸⁸ Delgado, "Critical race theory," 61.

¹⁸⁹ Ibid.

topographies of identity, epistemology, and ontology which connect the Caledonia microcosm to broader landscapes and histories, and explore the motivations and rationales that I believe have contributed to the testimonies we see evidenced by the Haudenosaunee and Canada. This chapter illustrates that – as Foucault and Fairclough explain – discourses never exist in isolation from their authors or their contexts, but are part of much larger projects, ideologies, and worldviews, which they continuously work to sustain and cultivate.

My discursive analysis of a particular dispute in a ‘normal’ Canadian town provides additional empirical and analytical support for the necessity of reformulating Canadian imaginaries, political and geographic spaces to acknowledge and embrace Aboriginal rights and title. Chapter 4 provides a brief synopsis of the steps I believe are necessary to restore an honourable and honest relationship between Canada and Six Nations, and First Nations more broadly. Significantly, these conclusions have also been reached by scholars approaching First Nations land rights from every angle: law, economy, history, justice, and sustainability, on whose work I lean in this chapter. I conclude the story in Chapter 5 with a summary of the ways that this dispute both evidences and contributes to ongoing Canadian space-making projects.

Chapter Two

WHAT IS AT STAKE IN THIS DISPUTE OVER LAND?

Setting the stage

On February 28, 2006, a group led by two young women named Dawn Smith and Janie Jamieson, calling itself the Six Nations Land Claims Awareness Group, halted construction on a housing development in Caledonia, Ontario. They were not officially supported by either of the governments of Six Nations, the elected Band Council or the traditional Confederacy Council.¹⁹⁰ Calling it a peaceful reclamation, the group gained public backing from the Confederacy Council after one month of occupying the building site. Canadian government officials were nonplussed and described the occupation as a policing matter destined for the courts rather than as an issue related to federal responsibility for relationships with Aboriginal peoples. At dawn on April 20, the Ontario Provincial Police moved onto the site and attempted to remove the group of protesters, but were themselves pushed off by hundreds of supporters who rushed over from the nearby Six Nations Territory. In response to the police action, the protesters erected barricades across the main street of Caledonia, as well as a nearby highway bypass and rail line, and negotiations with the government began in earnest. But the parameters of the ongoing dispute do not stop at disagreement over the ownership of the land itself. The site of contention is marked by battles over terms of justice and citizenship, interpretations of history long-past and legislation in-the-making, identities and cultural paradigms. Claims to material and moral ground are staked with flags and words, on the soil and on the page, with bodies and in minds. The discourses implicated in this dispute over land are productive of actual, physical landscapes.

Initiates might first assume, as I did, that the dispute is about differing cultural visions for the piece of land and the means of its possession. In a way, it is. But Douglas Creek Estates – renamed Kanonhstaton, ‘the protected place,’ by its new occupants – stands for more than just land in general. The discourses surrounding the dispute tie together justice, law, nature, Six Nations, Indigeneity, Canada, history, geography, economy, culture, and identity in powerful

¹⁹⁰ Muse, “Band Council reneges on land occupation support,” 1.

ways. I argue that the ways in which Canada has dealt with the dispute work to erase Six Nations as a rightful actor in the past, present, and future of the Grand River landscape and form a discursive *and* physical space which works to extend colonial history, as briefly outlined in Chapter 1, into the present. This, as I discuss in Chapters 3 and 4, is a problem – not only for Six Nations, but for Canada, too, because our future as Canadians is destined to be ever more intimately woven with the futures of the nations who were here first, and who live and grow and change, just as we do, on these lands.

In this chapter, I unmap a two year period of conversation in order to uncover the logics which have rendered ‘common-place’ the rights to and management of not only the disputed site at Caledonia but the remainder of the Haldimand Tract. This story pursues both a skeleton of events and the discourses which gave life and identity to these co-incidences of time, place, and person.¹⁹¹ Neither “Canada” nor “Six Nations” is a monolithic character in this ethnography: each is composed of various actors that work to build group messages and identities. My followings give voice to official and unofficial representatives in the dispute. For Canada, these include various municipal, provincial, and federal government officials, as well as the Ontario Provincial Police. For Six Nations, we hear from the on-the-ground protesters¹⁹² and their spokespersons, the Confederacy Council, elders and Clan Mothers, and the elected chief. This research does not seek to reveal the positions of the ‘majority’ of either the Canadian or the Six Nations people but rather the characterization of the dispute by its official stakeholders (and sometimes gatekeepers). Whether, for instance, individual government negotiators or spokespersons privately believe that Six Nations has been wronged becomes less visible and less important than the messages publicly propagated or the issues avoided. These are the meanings conveyed to the public, the messages that impact public opinion and that in some cases inspire individual grassroots action and reaction. Likewise, whether a majority of Haudenosaunee Six Nations people share particular views about development is made less relevant in the public

¹⁹¹ For lists of key persons and events, refer to Appendices A and B

¹⁹² Though several groups of people could be characterized as ‘protestors’ over the course of this dispute, in the interests of simplicity, I reserve this term (unless otherwise specified) for the Six Nations people choosing to actively work to further the reclamation effort in some capacity. Many non-Six Nations and non-Native people also rallied to this cause by attending the protest site, speaking publicly in support of the reclamation and of Six Nations’ claims to continuing sovereignty, but I generally do not give voice to their statements in this thesis.

discourse and in the negotiations which seek to resolve the dispute. Internal differences of opinion within various arms of the Canadian state and within Six Nations, while sometimes strategically highlighted, can also be suppressed in crucial ways.

I deliberately avoid giving undue attention to the clamour of other voices, for Caledonia, Six Nations, other Indigenous nations, and Canada are not homogenous – indeed, categories can be confusingly mixed by blood, by habitat, and by loyalty - and contain both supporters and opponents of the reclamation, each for their own reasons. More importantly, though many of these persons have clearly stated viewpoints in this dispute, they have not been accorded positions of representativeness through either official or unofficial mechanisms. Many of these figures, will, however, be introduced along the way, as the discourses built around and responding to their activities and identities are revelatory in their own right. Likewise, in using the labels “Canada” and “Six Nations” I do not seek to conceal divergences of viewpoint. Indeed, I will argue that the ways in which political difference is mobilized are critical components of both parties’ identities and, through this, their approach to the dispute.

I tell this story by reporting on, (re)contextualizing, and analyzing conversations explicated in the public record. I seek to highlight the ways in which epistemologies and ontologies are inextricably woven *with* events and *through* ideas, beliefs, and values. Contesting visions of the land and its (re)claimants are starkly evidenced in the referents Kanonhstaton and Douglas Creek Estates; protestors and protectors; reclamation and occupation; reserve and territory; Indians, First Nations, Indigenous peoples, Haudenosaunee, Iroquois, and Six Nations of the Grand River Territory. These competing names, heavy-weighted with truth-claims, are easily noted by casual observers. In the end, I seek to chart public characterizations of the dispute by the parties directly involved because they constitute a competition over the land itself: its terms of ownership, its history, its markings through stories and symbols, and its place in mobilizations of relationships, cultures, citizenship, politics, values, and justice.

What materialities emerge from these discourse practices – that is, how are the conversations about this land productive of actual landscapes? How does this dispute over land called Douglas Creek Estates and Kanonhstaton reveal the space-making projects of those who fight for it?

What can we learn from this conflict about the Canadian cultural imaginaries implicated in Canada's past, present, and future relationships with First Nations? This chapter seeks to answer these questions by always keeping the story line in view. Without a frame of events on which to hang, fleshy words would be unable to breathe and live; equally, bare bones of 'facts' clarify little. I introduced this account with a chronicle of Haudenosaunee-settler interactions in Chapter 1, and now resume it in 2005 when yet another piece of legislation destined to shape the spaces in which these people live was passed. The intertwining stories of Caledonia and Six Nations provide unmistakable evidence for the mutual reinforcement of corporeal and discursive happenings, working together to shape both on-the-ground and political landscapes.

I focused on certain discursive themes and material events in the analysis which follows. Each section in this chapter centres on a particular theme, as indicated by its heading, and a set of connecting events and textual references. The reader is, of course, free to re-interpret; I have deliberately included large amounts of textual data to both support my arguments and to leave room for debate. Themes were selected firstly because they were repeatedly and prominently expressed in the body of texts I explored, recurring in individual statements, group declarations, accounts given spontaneously and those written more deliberately, in informal settings and in official negotiations. Secondly, and equally significantly, these themes tell a story of their own, working together to show how this dispute is profoundly structured by contests over the rights to shape both discursive and physical space. This provides a useful and coherent lens through which to view the conflict in Caledonia. The topics analysed - including the management of land, its importance to identity and nationhood, the concept of 'normalcy,' the significance and constitution of Canada-Six Nations relationships, the 'rule of law,' and ideas of justice and compensation – cohere in important ways, shaping the dispute and revealing its underpinnings in disparate worldviews and versions of history.

Finally, this discursive analysis is structured so as to demonstrate how the parameters of this dispute – both tangibly and in words – have been tremendously regulated by Euro-Canadian epistemologies and ontologies. In legislating, policing, imposing borders, rendering judgments, setting negotiation constraints, and in myriad other ways of classifying what is 'normal' and 'acceptable' in Canadian terms, and ascribing 'abnormality' and 'unacceptability' to Six Nations,

Canada has marshalled the dispute over Douglas Creek Estates in service of continuing colonial space-shaping agendas which prioritize individual (property) rights, economic growth and development according to Western frameworks, and which are legitimated by imaginaries of tolerance, multiculturalism, progress, and objective law.

Places to grow?

To the uninformed non-Native observer, the reclamation of Douglas Creek Estates must have seemed to come out of *nowhere*: removed from histories, geographies, politics, and policies, the protesters apparently dropped onto the land only to foment trouble in a peaceful town. The terrain of the dispute, however, was tattooed with history long before Six Nations protesters claimed the build site by inhabiting it. The town of Caledonia is named for its Scottish settlers' heritage, yet is located in Haldimand County, namesake of Lieutenant-Governor Haldimand, whose 1784 Proclamation, introduced in Chapter 1, sought to recompense Six Nations for wartime losses. Next to the electoral riding and County of Haldimand is Brant County, named for Joseph Brant and encompassing the Six Nations Reserve. The names of all six Nations are sprinkled liberally throughout the area: Haldimand County is headquartered in the downriver town of Cayuga; I grew up in Onondaga Township; and Indian Line Road runs south and east along the contemporary Six Nations' border from Brantford (originally Brant's Ford). These names both expose and render *commonplace* and unattended the area's complex history.

In similarly unremarked ways, the fight for Kanonhstaton/Douglas Creek Estates is the result of decades and centuries of Canadian history and policy, a legacy of legislation that continues today to shape space and place. In June 2005, the Ontario Ministry of Energy and Infrastructure passed the Places to Grow Act.¹⁹³ Promising "Better Choices. Brighter Future," the legislation is a telling précis of the paradigm of prosperity, economic growth, and population management within which the province and the country operate. The legislation purports to represent what *is*, rather than what is *intended*: "The Government of Ontario recognizes that in order to accommodate future population growth, support economic prosperity and achieve a high quality of life for all Ontarians, planning must occur in a rational and strategic way." Enacting all-knowing rationality,

¹⁹³ Ontario Ministry of Public Infrastructure Renewal, *Places to Grow Act*, para. 1.

presumably eschewing intangibles such as emotional, traditional, or moral values, claiming to be able to “recognize” what “must” occur in order to account for apparently inevitable population growth for the benefit of “all Ontarians,” and assuming economic and population justifications, the Ministry backgrounds the land on which this development must occur and the people whose lives will be affected by prescribed “growth.” The blurring of fact and prediction conceals alternatives posited by those with different priorities or who refuse to fall under the “all Ontarian” umbrella proffered by the Ministry. Crucially, the Act also ignores the ways in which its predictions become self-fulfilling: as it identifies “where and how growth should occur” and provides “population projections and allocations,” it takes as its justification the very growth that it legislates into place. Though local planning authorities holding jurisdiction may have some input “at the discretion of the Minister,” consultation with members of “the public” is not mandatory (we might also safely question the inclusiveness of Ontario’s ‘public,’ which is unlikely to include First Nations except as regulated by provincial law).

Following the legislation, in spring 2006 Ontario government released the *Growth Plan for the Greater Golden Horseshoe* (GGH) area of Southern Ontario in which Six Nations, Haldimand and Brant Counties are located. The Plan promises to “create a clearer environment for investment decisions and will help secure the future prosperity of the GGH”¹⁹⁴ and to reflect “a shared vision amongst the Government of Ontario, the municipalities of the GGH and its residents.”¹⁹⁵ Central to the Plan is its assignation of urban growth centres, including population and job density targets. Both Haldimand and Brant Counties were designated “growth areas”¹⁹⁶: Haldimand County’s population is to grow from 46,000 in 2001 to 56,000 in 2031, and Brant County/Brantford from 129,000 to 173,000 over the same period.¹⁹⁷ Neither the Act nor the Plan mention Six Nations or any other First Nation living in the geographical area of the GGH, despite Six Nations’ prediction that its on-reserve population of 11,300 in 2005 will increase to 19,200 by 2025 and to 41,600 by 2055¹⁹⁸, growth that desperately needs a ‘place.’ Six Nations was already all too aware of pressure on its lands. Now that it was actually *legislated*, it became painfully

¹⁹⁴ Ontario Ministry of Public Infrastructure Renewal, “Growth Plan,” 6.

¹⁹⁵ *Ibid.*, 7.

¹⁹⁶ *Ibid.*, 45.

¹⁹⁷ *Ibid.*, 47.

¹⁹⁸ Six Nations Council, “Six Nations Community Profile.”

easy and necessary to point out the disregard for Supreme Court rulings mandating consultation and accommodation where land title is disputed, and the crucial need for *Haudenosaunee* places to grow.

As outlined in Chapter 1, the occupation in Caledonia was far from the first time that Six Nations had asserted its land rights grievances over the years through petitions, letters, and delegations, though all had been ignored. According to Indian Act policy, Indians had also been prevented from raising funds to file grievances against Canada for many years. When Canada established its Office of Native Claims in 1974, Six Nations created its Land Claims Research Office.¹⁹⁹ Extensive research on the terms of the Haldimand Proclamation and other treaties, the unlawful alienation of much of Six Nations land, the (often non-)payment for land that was lawfully surrendered, and the (mis)management of the financial assets which resulted from sales and leases, resulted in the submission of twenty-nine claims to Canada's Specific Land Claims process between 1980 and 1995. Only one of these claims has been resolved. One of the twenty-eight unresolved files, the Hamilton-Port Dover Plank Road claim, encompasses the lands on which the Douglas Creek Estates were half-built in 2006. Over the years, however, it became clear that the Specific Claims process was providing no resolution. In 1995, Six Nations filed legal action demanding a full accounting of all leases, sales and monies in *Six Nations of the Grand River Band v. The Attorney General of Canada and Her Majesty the Queen in Right of Ontario*. The lawsuit also progressed extremely slowly, and Six Nations decided to put the litigation in abeyance in 2005 in favour of attempting negotiations outside of both the Specific Claims process and the courtroom.

Finally, the two young Six Nations women, Dawn Smith and Janie Jamieson, decided that the development of forty more hectares into yet another housing development²⁰⁰ at the borders of burgeoning Caledonia and on the doorstep of boxed-in Six Nations was too much. The farmland was known by local old-timers to be subject to an unspoken 'gentlemen's agreement' according to which Six Nations would cause no fuss about agricultural uses (plough-deep) of land under

¹⁹⁹ It was restructured in 2003 and renamed the Six Nations Lands and Resources Department

²⁰⁰ Charting the complex histories and discourses which materialize as suburban, single- (and hetero-normative) family detached housing developments (such as Douglas Creek Estates) at the cost of agricultural land and interactive urban community would be a fascinating investigation into Euro-American reverence for individual property and orderly society, but is unfortunately outside the scope of this thesis.

claim.²⁰¹ Development on lands pending resolution in the claims process had continued apace for years, and previous protests had resulted only in the Grand River Notification Agreement, a rubber-stamp, non-binding process favouring Canada and developers.

The women organized the Six Nations Land Claims Awareness Group in 2005 as municipal governments of Caledonia and Brantford continued to issue building permits and Ontario continued to sell disputed land to developers. According to dedicated reclaimer Ruby Montour,

We sat back while they built Canadian Tire and other plazas on our land. This is Six Nations land. We're not backing up any more. They've pushed us into this position. They're encroaching on our land more and more. Where are our children going to live? That's not Douglas Creek Estates. That's Six Nations land. Six miles on either side of the Grand River is Six Nations territory and everybody is living on it except for us.²⁰²

As reclamation spokesperson Hazel Hill later wrote in one of her frequent missives updating supporters and the public about the occupation and negotiations, "they hurry up and try to develop as much land as possible so they can say they can't return it to Six Nations."²⁰³

Though long-term residence on the building site began in February 2006, Dawn and Janie's push back started on October 25, 2005, when their small group halted construction at Douglas Creek Estates for one day. The next day, Six Nations elected chief Dave General wrote to Don Henning, co-owner of Henco Industries, the developer of the Douglas Creek Estates project, warning him about continuation: "As you may be aware, you are not the first proponent within the Grand River Tract to have experienced peaceful protest by Six Nations members."²⁰⁴ On November 16, Six Nations volunteers handed out information pamphlets to a few thousand drivers on the highway bypass near the site, asking people to "Honour Six Nations' Land Claims: Do Not Buy or Sell Unsettled Land."²⁰⁵ "How can the Haudenosaunee people prosper if there are no lands left for their families to grow?" they asked.²⁰⁶ General also wrote Haldimand County officials on

²⁰¹ Personal communication with members of Grand River communities, June 2008.

²⁰² Zronik, "Inside the occupation," A1.

²⁰³ Hill, "Update from Grand River: Hazel Hill," 14.

²⁰⁴ The Hamilton Spectator, "Developer warned months ago about Six Nations land," A6.

²⁰⁵ Unknown author, "Honour Six Nations Land Claims: Do Not Buy or Sell Unsettled Land."

²⁰⁶ Shown in Martin-Hill, *Sewatokwa'tshera't: The Dish with One Spoon*

January 4, 2006: “Six Nations is concerned about the cumulative effect of [Douglas Creek] and impending growth in the Caledonia area on the Grand River Tract and the Grand River Basin.”²⁰⁷ His appeal, clearly referencing the *Places to Grow Act* and the *Growth Plan*, was ignored.

The physical space-shaping objectives of Ontario’s *Places to Grow* plan are obvious. What is less apparent at first glance is the way that the *Act* and the *Growth Plan* work to erase Six Nations from the landscape. Literally, the Six Nations Territory is blanked out of the map: all immediately surrounding areas are coloured beige, indicating their designation as places for increased development, but the Territory is coloured white and unlabelled: separate, but not worth pointing out. In a less visible way, however, Ontario’s legislation continues on the same trajectory defined by earlier colonial law. Canadian space is moulded according to prerogatives and property laws as defined by settlers, and Six Nations is denied recognition as a legitimate people with the right to influence the shaping of landscapes according to its values and needs.

Land, identity, polity

Six Nations’ right to manage its lands and resources and to have its outstanding claims addressed is deeply tied to its identity, spirituality, existence, and future as a people. In discussions about land - both this particular piece of it, and in a more general sense – the interconnections between land and polity are clear. Representatives for Six Nations are explicit about these links; on the Canadian side, the knots between claims to legitimacy as a nation-state and assertions of jurisdiction are more ambiguous but no less pervasive.

Despite attempts to grab attention via letter writing and short protests, construction at Douglas Creek Estates continued. According to Dawn Smith, “A very wise man came and told us, ‘The only way you’re going to get this back is a reclamation, an occupation [...]’ Under the Great Law it is our job, it is our DUTY to protect the land for the next seven generations.”²⁰⁸ On February 28, the protesters moved in for good. They showed up, erected a barricade across the entrance, strung a sign proclaiming “Six Nations Land,” announced to the arriving builders that construction was

²⁰⁷ The Hamilton Spectator, “Developer warned months ago about Six Nations land,” A6.

²⁰⁸ Martin-Hill, *Sewatokwa'tshera't: The Dish with One Spoon*.

finished, and waited for them to leave. Believing that the land belongs to Six Nations, this action is referred to by supporters as a reclamation, not an occupation,²⁰⁹ and was never about 'claiming' the land according to Canada's system or terminology: they believe that the land is already theirs. As Smith put it, "As far as we are concerned, the Earth is our Mother. It was given to us by our Creator, and he did that for a purpose [...] I will never give up the fight for our lands. It is every woman's obligation to protect the seven generations to come."²¹⁰ The environmental and spiritual importance of the land is also explained in an information pamphlet:

We are all taking risks with the health and well being of our future generations by allowing this development to occur. Our children and grandchildren's health and well being are worth it. We, Haudenosaunee, have a responsibility and a right to protect all aspects of life: plant life, animal life and human life. We are justified in our struggle to protect our land rights as our existence is tied to the land.²¹¹

Even a brochure posted on the Six Nations website juxtaposes the traditional Haudenosaunee Thanksgiving Address with maps and descriptions of local wetlands and emphasizes on ecosystem conservation.²¹² Mohawk Chief Allen MacNaughton describes development along the Grand River as "upsetting. We need to take our relationship to the earth more seriously."²¹³ A clear account of the Confederacy Council's views on Land Rights is found in the formal statement adopted in council in November 2006,²¹⁴ including assertions of "certain land ethics and principles that must be respected in any agreements on land use or occupation" since land is a birthright, essential to Haudenosaunee culture. The statement bases the importance of land on the Creation Story, the Great Law of Peace, and the Good Message, and land is seen as the Dish with One Spoon requiring everyone to share it responsibly. "It is not for personal empire building," as the Haudenosaunee "are connected to the land in a spiritual way." The Chiefs assert that they "are not interested in approving fraudulent dispossessions of the past" but would like to "renew the existing relationship that we had with Crown prior to 1924."²¹⁵

²⁰⁹ Canadian Press, "Six Nations protesters occupy home building site in Caledonia," A5.

²¹⁰ Muse, "Call for unified support from Six Nations," 2.

²¹¹ Unknown author, "Honour Six Nations Land Claims: Do Not Buy or Sell Unsettled Land."

²¹² Six Nations Eco Center, "Six Nations wetland protection."

²¹³ Gamble, "Some 'divine intervention'," A5.

²¹⁴ See Appendix C for the full text of this document

²¹⁵ Six Nations "Iroquois" Confederacy, "Land rights statement as adopted in council," 3.

Protesters consistently frame the reclamation as a historic opportunity to establish Six Nations' right to the land for future generations: "This victory will set precedence for each and every unborn Ogwehowe grandchild throughout Turtle Island."²¹⁶ Clan Mother Ruby Williams expressed the need for "a place for our future, for our children and grandchildren that we have. We need a place for them to live and to own."²¹⁷ At a meeting at the Confederacy Council house marking the reclamation's one-year anniversary, Allen MacNaughton explained, "The Caledonia reclamation has always been about the land. As a people we are deeply connected to the land and that is why the Reclamation of our land has taken root. The environmental impact that the proposed plans will have on your children, and their grandchildren as well as ours, is deeply concerning." When asked when the site will be cleared, he replied, "We cleared it a year ago today."

Conversations about the importance of the land immediately also connected Six Nations land rights to its sovereignty. A statement from a group of Clan Mothers in the early weeks of the occupation called for a permanent end to the construction, declaring that "the denial of a nation's existence constitutes genocide according to the many international covenants that Canada has pledged to uphold."²¹⁸ In a public call for support, Hazel Hill highlighted Six Nations' continuing nationhood: "It's not about claiming the land, because we know that we hold title to it. It's not about an occupation, but about asserting our jurisdiction."²¹⁹ Renaming the site from Douglas Creek Estates to Kanonhstaton – Mohawk for 'the protected place' - constituted a powerful material claim to the land and to the nature of the protest. Though often referred to as 'occupiers,' a term conjuring up images of armies and guns, the protesters see themselves as "unarmed and peaceful" 'protectors.'²²⁰ Despite numerous court injunctions and threats of arrest, Jamieson asserted that "we'll be here until the jurisdiction and the title of the land is restored to Six Nations. Everything has been peaceful and will continue to be peaceful."²²¹

²¹⁶ Muse, "Barricade removal causes dissension," 9.

²¹⁷ Martin-Hill, *Sewatokwa'tshera't: The Dish with One Spoon*.

²¹⁸ The Women Title Holders of the Rotinoshon'non:we, "Objection by Six Nations Women Title Holders to theft of 'Haldimand Tract'."

²¹⁹ Hill, "Oh Brothers and Sisters, Where Are Thou?," 7.

²²⁰ Gamble, "Protesters stand firm: Deadline passes to leave Caledonia construction site," A1.

²²¹ Legall, "Natives vow to continue protest after court blow," A8.

The Six Nations land reclamation is not just about taking back our rightful place in Creation and standing strong and in unity to fight the oppression, and colonialism and genocidal practices that have threatened the mere existence of our people for many generations. It is about who we are as Onkwhehonweh [original] people and the relationship that we have with the land and with all of creation ... and the responsibility that we have to ensure that Peace is upheld.²²²

Land is about identity. Jamieson asserts that “this is who we are. Could we go to Paris and be Longhouse people? No. We need [...] to imbue our kids with a sense of who they are. I could go and live in Toronto, but I don’t know if I would lose who I am.”²²³ In keeping with the central importance of the land, spokespersons for the reclamation often refer to Kanonhstaton as “the site.”²²⁴ This term invokes *place where things are happening*: here, a contest over the land itself.

In contrast to the statements made by representatives for Six Nations in the reclamation, the government’s approach towards land, though rarely directly explicated, is usually related to its status as legal “property” and its potential for development. Narratives indexing the occupation as a land policy/permit issuing matter meant that policies - including the issuing of building permits on disputed lands and the *Places to Grow* legislation mandating growth - went unquestioned. Ongoing denial of Six Nations land rights was ignored in favour of a focus on Canadian development paradigms. Frequent use of the term “property” highlights the unlawful “occupation” of land that is *owned* – and not by Six Nations. Press releases from the Ministry of Aboriginal Affairs in early months of the dispute focus on compensation to the developers whose work was halted²²⁵ and a subsequent moratorium of development on Kanonhstaton lands.

Provincial and federal responses to the occupation also backgrounded the materiality of the dispute in countless references to the *situation*, *issue*, or *matter*, avoiding the terms *land* or *dispute*. This abstracts Six Nations’ clear demands for recognition of their land rights and the government’s treaty and claims obligations. These terms also serve as stand-ins, so that the land dispute is referred to instead as the “Caledonia situation,” “matters under dispute” or

²²² Hill, “Speaking the Good Words from Kanenhsatón: A Basket of Apples,” 7.

²²³ Gamble, “Whose land is it, anyway?,” A1.

²²⁴ For instance, see Hill, “Update from Grand River,” 1

²²⁵ Ontario Ministry of Aboriginal Affairs, “Progress being made on Caledonia situation.”

“outstanding issues.”²²⁶ In a letter to the Confederacy Council written six weeks after the start of the occupation, the federal Minister of Indian Affairs, Jim Prentice, teamed up with his provincial counterpart, David Ramsay, to trivialize Six Nations’ grievances, reducing them to “concerns” about cultural values and avoiding specific mention of the dispute over land.²²⁷ Though perhaps made for reasons of diplomacy or political correctness, these references remove everything but the protest itself by making the “issues” vague and undefined. The negotiations are described as providing for “the implementation of constructive and effective ways to address and resolve the various outstanding issues,” without mention of the word ‘land.’²²⁸ By removing the on-the-ground consequences of the dispute, it was reinforced as an ‘Indian problem’ created by lawless, whining renegades, not a matter for federal consideration but for provincial law enforcement.

The Ontario Provincial Police (OPP) attempted to remove the protesters on April 20, 2006, about two months after the occupation had begun. Storming the site at 4:30 am, the police first succeeded in pushing back the startled occupants, but calls for help soon brought many hundreds of Six Nations people to the site, and in the end police themselves were “removed” from Douglas Creek Estates. This literal battle for ground played an immeasurably formative role in the dispute, both materially – in shaping the actions taken afterward, including the construction of barricades blocking entry to the site and physical confrontations between Caledonians and protesters – and discursively – by structuring dialogue patterns, reinforcing parties’ earlier viewpoints *and* creating space for new narratives to emerge. If the reclamation had not been prominently described by politicians as criminal, would police have been called to take action? And how did the OPP’s failure to oust the protestors initiate emphasis on the ‘rule of law’?

The OPP’s first statement regarding the reclamation had exhibited none of the governments’ shyness about referring to the dispute over land; the police assume the right to step in when purportedly objective law demands action. “On February 28, 2006 several First Nations members occupied land being developed for housing by Henco Inc. The occupiers question the ownership of the disputed land. The primary role of the OPP is to keep the peace and ensure public

²²⁶ Ministry of Aboriginal Affairs, “Progress at main table discussions.”

²²⁷ Prentice, “Letter to Six Nations ‘Iroquois’ Confederacy,” 2.

²²⁸ Ontario Ministry of Aboriginal Affairs, “Points of agreement reached between Haudenosaunee/Six Nations, Canada and Ontario.”

safety.”²²⁹ Its press release a few weeks later, immediately following the raid, began with emphasis on *success*, explaining that police had “arrested and removed 16 protesters occupying a housing development in Caledonia, Ontario”²³⁰ as follows: “At approximately 4:30 a.m. today, teams of officers trained in the safe orderly removal of protesters attended the Douglas Creek Estates, Caledonia and removed the protesters. Officers were required to use the least amount of force that was necessary in order to affect some of the arrests.” This description avoids characterizing the amount of force that actually *was* used to “remove” the protestors. It continues,

The site was secured, however a short time later the site was re-occupied. During this time three OPP officers were injured and required medical attention. Our officers showed tremendous restraint while confronted by the protesters with weapons which included axes, crowbars, rocks and a various assortment of make-shift batons.

The description conjures up notions of violence, militants, and deviants. Indeed, the Six Nations protesters and the hundreds of supporters mobilized from the reserve when the OPP arrived *were* militant, and they *did* deviate from Canadian law in their resistance to the officers: to them, the land was a battleground implicated in their existence and recognition as a sovereign people. Their interpretation of the necessity of the reclamation, however, differs from that of the police. In praising its officers for “restraint,” the OPP suggests that other options were available: officers could have responded, presumably, by fighting with protesters to the death using the automatic weapons stashed on hand in nearby vans, or given orders for the snipers hidden in bushes to shoot, instead of merely pepper spraying, tasing, kicking, and hitting protesters with batons. Concluding, “We ask everyone to work with us in restoring calm,” the OPP dodge responsibility for disrupting the peace which had largely prevailed prior to the raid. The police action stakes Canada’s claim to the (battle)ground and to nation-state sovereignty and legitimacy just as unmistakably as Six Nations’ reclamation and statements about land and identity.

To Six Nations, the raid recalled the 1924 RCMP takeover of the Council House and instalment of the elected band council, as well as the quelled 1959 attempt by supporters of the Confederacy

²²⁹ Ontario Provincial Police, “First Nations land claim dispute - Caledonia.”

²³⁰ Ontario Provincial Police, “Protesters removed from Caledonia housing development.”

Council to re-take the council house. It furthered distrust of the police²³¹ and reaffirmed the reclamation's significance to Six Nations' struggle for existence: to many, the raid was viewed as a declaration of war and a manifestation of continuing attempts at cultural (thus, literal) genocide. Until the raid, entry to the site had been blocked only at the front gate, but soon afterwards, protesters erected barricades blocking Argyle Street, the Highway #6 bypass, and the nearby Canadian National (CN) rail line, asserting that their safety was at risk. This chronology – OPP raid *then* barricades inconveniencing Caledonia - is often neglected in recollections of the occupation.

Protesters declared that police intervention, which the OPP had promised not to initiate without warning, had disturbed a previously peaceful occupation. Indeed, some angry protesters set fire to piles of tires and dropped a van from the highway bypass to the road below. The next day, Janie Jamieson explained, "After the experiences of yesterday and dealing with the raw emotions that caused, now peace has been restored. The threat is still there, but peace is restored." Ruby Montour, later to become a much-recognized figure at building sites beyond Caledonia, highlighted the significance of the raid and the attention to the reclamation and Six Nations' land and political rights garnered when protesters erected roadblocks: "It's history in the making. It's the first time we've been listened to."²³² Expressing the disgust of the Confederacy Council with the unexpected police action, which occurred almost immediately after chiefs Allen MacNaughton and Leroy Hill had been talking with government officials late into the night, Hill pointed out that at least the failed raid and resulting blockades would influence the government to pay attention: "We come from a long tradition of diplomacy and using a good mind and resolving things at the table. We predict they'll be listening to us a little better [at meetings]."²³³ The raid's impact still echoed strongly on its first anniversary, when Hazel Hill alleged that Canada classifies as terrorists "all 'first nations' who gather in defense of their homelands or in defense of their sovereignty and inherent rights," comparing the raid again to the 1924 imposition of the elected band Council, a "forced armed invasion of the RCMP against the Haudenosaunee on the direction of the Crown."²³⁴ In another bulletin two weeks later, she made a call for Six Nations to:

²³¹ Zronik, "Inside the occupation," A1.

²³² Ibid.

²³³ Nelson, "Rude awaking for young protester," A1.

²³⁴ Hill, "Hazel's update of April 12, 2007."

gather our Nations together, strengthen each other and stand together as one, like we did on April 20, just over a year ago [...] If we don't stand together, if we don't truly unite, [...] what will happen to the future of our people, is there will be none. And that, people, is the ultimate goal of the Crown.²³⁵

The raid and the reclamation have re-emphasized to many in Six Nations the common bond that they have *against* Canada. On its first anniversary, reminders of how the land has become marked with this struggle included a gathering at the site to plant five white pine trees, symbol of the Confederacy. Physically, the injured bodies of protesters and officers, the weapons used on both sides of the skirmish, the fires burning along the railway tracks, and the barricades erected on the roads around the site, proved to be affective images for those for and against the reclamation. A pictorial history of the raid published one year after the start of the reclamation clearly depicts a battle, referring to "lines of defense," "war," OPP "sharp shooters" hidden in bushes, "our nation under attack," and Caledonia "under siege" by blockades. Cayuga Chief Cleve General is quoted, "I never thought I would live to see the day we would stand up for who we are." As Janie Jamieson says, "we were fighting for our existence."²³⁶

A unity rally held at a park on Six Nations territory in the wake of the raid brought additional Six Nations supporters. Organizers linked the significance of the reclamation effort to other First Nations struggles: "All we want to do is show not only this community, but other communities- show the world that we can come together, and this is the time."²³⁷ The reclamation effort is viewed as a crucial time in Six Nations' ongoing, still-being-created history, though not all Six Nations citizens agree with the occupation strategy.²³⁸ The return of the Council House, "built prior to Canada's existence," from the elected Council, and the flying of the Confederacy flag, were important material milestones of "strides in asserting our sovereignty,"²³⁹ reaffirming the place of the Confederacy in Six Nations' future. The reclamation will find a place in the oral histories of the Haudenosaunee "as having been a part of Six Nations standing up for the land,

²³⁵ Hill, "Hazel's update," 5.

²³⁶ Nelson, "Protesters observe raid anniversary; Natives challenged OPP and retained position on occupied site," A12.

²³⁷ Muse, "Occupation viewed as a 'turning point' for SN," 5.

²³⁸ Ibid.

²³⁹ Faulkner, "Historic house is ours; meeting place returned to traditional Six Nations leaders," A10.

and being heard, rather than ignored,”²⁴⁰ a time of change and rejuvenation. Protesters speaking about this dispute describe a landscape firmly tied to identity and future, whether political, environmental, or spiritual, and often all three at once. Despite Canadian statements abstracting the land from the dispute, the OPP effort to remove protesters equally serves to mark the space as one of rights and belonging, sovereignty and law: in short, as territorial battleground.

Normalcy: “us” and “them”

The framing of the occupation in its Caledonia context occurred swiftly, discursively positioning the town as a place of ‘normalcy’ – a space of calm, rationality, and tolerance; of orderly growth and expansion according to Canadian property and industry law; of friendly relations with its neighbours at Six Nations – which had been rudely disrupted by the protest and reclamation. These constructions, though riddled with contradictions and ironies, continue to reverberate in imaginaries and materialities of the dispute, establishing Douglas Creek Estates and Caledonia itself as spaces where Six Nations did not belong, criminalizing their actions and continually refocusing the dispute from the central topic – the *land* – to the realm of criminal activity and the prioritization of a “return to normalcy” for the victimized Caledonia community.²⁴¹ In positing borders of exclusion and inclusion, these narratives of ‘normalcy’ are a powerful part of Canadian space-making projects.

Haldimand County Council began official statements regarding the reclamation on April 22, two days following the attempted removal of the protesters and, more importantly, after the road blockades were erected and the occupation more directly impacted Caledonia residents. None of the County’s releases directly mention the police raid: instead, it is as though the barricades were erected at the whim of capricious protesters; citizens are asked to “remain calm to avoid the escalation of tension.”²⁴² Haldimand Minister of Provincial Parliament (MPP) Toby Barrett expressed his view that the blockades resulted from failure to immediately remove protesters:

²⁴⁰ Green, “Road to the Reclamation,” 25.

²⁴¹ Nolan, “Finley: Send cops to clear out natives: MP wants Caledonia returned to ‘normalcy,’” A9.

²⁴² The Corporation of Haldimand County, “A message to the citizens of Haldimand County regarding recent local calls for action regarding the demonstration at Douglas Creek Estates in Caledonia.”

“What we’re seeing today is the price you pay for hesitation and prevarication. [...] What the government is doing now, I’m afraid, it’s all too little, too late.”²⁴³

In direct contrast to actions taken on April 20, Caledonia and Canada were discursively positioned as places of rationality rather than chaotic emotion, furthering an “us” versus “them” distinction. Mayor Trainer called for people to “think with their heads, not their emotions”²⁴⁴ and was echoed by the Ministry of Aboriginal Affairs: “We know we can make more progress, but the solution will come easier if all parties remain calm and cool heads prevail.”²⁴⁵ Along similar lines, the “challenge” of the dispute was placed in opposition to “positive attributes”: “This is a challenging time for everyone involved, but it’s also a time for the positive attributes of humanity to shine through in a meaningful way.”²⁴⁶ Frequent calls to “be patient and try our best to work through our differences at the negotiating table”²⁴⁷ implied that Six Nations is overly impatient and ignore, for instance, its 2004 decision to pause litigation in favour of negotiated approaches.

The idea that Caledonia is a ‘normal,’ calm, rational place which should not have to endure disturbance is at odds with the events of Victoria Day, May 22, 2006. To Six Nations, it was Bread and Cheese Day, which began as a thank-you to the Haudenosaunee for their military support. When celebrations were discontinued by the Crown in the late 1800s, the Confederacy Chiefs maintained the tradition until 1924, when the Elected Band Council took it over. The day is thus a reminder of relationships of Crown alliance gradually abandoned by Canada and the forced imposition of a generally unwanted Band Council. Despite some resulting ambivalence, Bread and Cheese Day is Six Nations’ largest annual gathering, bringing home many who live away from the territory. To the rest of Canada, Victoria Day is simply a holiday.

By this time, discussions between Canada, Ontario, and Six Nations had more seriously begun, and Haldimand County Council was encouraged by “the possibility that the barricades will be

²⁴³ Marion, “Conservative MPP lays blame for standoff with Liberals,” C3.

²⁴⁴ Bauslaugh, “‘It was pretty hot and heavy’: Haldimand mayor still hopes for peaceful resolution to protest,” C3.

²⁴⁵ Ontario Ministry of Aboriginal Affairs, “Progress being made on Caledonia situation.”

²⁴⁶ Ontario Provincial Police, “Key to successful negotiations and community safety: understanding, mutual respect and meaningful dialogue.”

²⁴⁷ Coolican, “Re: Ontario’s Response to June 6 2007 Letter from Haudenosaunee/Six Nations,” 1.

lifted by the end of this week [...] a very positive gesture of goodwill that would go a long way towards re-building and improving relationships between the Six Nations and surrounding communities.”²⁴⁸ Partial access to Highway 6 had already been granted as “a show of good faith,” according to Hazel Hill and Janie Jamieson, who emphasized that “this has never been about pitting Six Nations people against Caledonia residents.”²⁴⁹ Protesters had also welcomed a moratorium on construction at Kanonhstaton, although they also recognized Henco’s third party position, caught in the middle, sold property by the government “that didn’t belong to them.”²⁵⁰

On May 22, protesters removed rubble from Argyle Street in preparation to open the road to traffic. As Clyde Powless, a reclamation spokesperson, said, “We’ll show how peaceful we are, and how much peace we want to keep by opening a road for them and start negotiating with them.”²⁵¹ However, Caledonia residents angry about the month-long blockades and the development moratorium, viewed by many as an infringement on Henco’s property rights, created their own blockade and refused to move it. The confrontation escalated, with large crowds of supporters on both sides. Bringing forward a cedar branch and a club, occupation spokespersons asked Caledonians to choose: if they moved, so would the protesters. Haldimand County councillor Lorne Boyko begged the residents to accept the peace offering: “It’s in your hands. Not only are your children watching here in Caledonia but all of Canada is watching. For the future of the community we have to move back. This has to end.”²⁵²

After Caledonia residents refused to move, protesters began digging up the road with a backhoe. Former premier David Peterson rushed to the scene. As he later said, “I jumped in my car and rode down here at excessive speeds. My greatest fear [...] is that something could set off an incident here where somebody is hurt or somebody is killed, and you sustain an international stain on Caledonia.”²⁵³ By mid-afternoon, Ken Hewitt, spokesperson for the Caledonia Citizens

²⁴⁸ The Corporation of Haldimand County, “Haldimand County Council statement re: Douglas Creek Estates Occupation.”

²⁴⁹ Bauslaugh, “Six Nations protesters reopen part of Hwy. 6,” A4.

²⁵⁰ Graham, “Talks on Caledonia occupation on hiatus,” A1.

²⁵¹ McArthur, “Caledonia natives set to remove one blockade,” A1.

²⁵² Kruchak, McKay, and Nelson, “Caledonia erupts: Emergency declared, schools closed; fists fly as natives and non-natives take to the streets,” A1.

²⁵³ Freeze and Moore, “Caledonia tensions reach boiling point,” A1.

Alliance, was calling for the military: “We’re in a state of emergency. The army is the only thing that will bring order back to the streets.”²⁵⁴ In the melee, a nearby electricity transformer was set on fire, and Mayor Trainer blamed it on the protesters: “It was definitely natives.”²⁵⁵ She declared a “State of Emergency” due to the power outage affecting Caledonia and Six Nations, and established an emergency shelter and telephone information line to meet “the needs of the community.”²⁵⁶ Press releases following the events focused on tips for disposing spoiled food²⁵⁷ and the State of Emergency, which remained in effect until June 8,²⁵⁸ despite the restoration of power within two days. Other than the fear of injury or death, these reactions to the standoff hit notes of distinct absurdity: fear of damaged reputation, calls for the military, and potentially spoiled food trumped concerns about tensions between protesters and town residents and the racism demonstrated during the standoff. On May 23, however, Hewitt picked up and carried a peace branch over to the protesters’ side of the barricade. Protesters removed the Argyle street barricades, and Mayor Trainer decided not to call in the army thanks to this move.²⁵⁹

The portrayal of these events varies, of course, depending on who is doing the talking. David Peterson commented on the importance of the barricade removal in order to address larger claims issues. “The barrier became a symbol of disunity. The big issue is the land issue, this has to be engaged with. [Removing the barricade] is only one step, but it was a big step and it’s important.”²⁶⁰ McGuinty’s May 22 statement denounced the “confrontation” which has “no place in our society” and “does nothing to help resolve this situation,”²⁶¹ but made no attempt to comment on the actual sequence of events. He called for “all parties to renew their shared

²⁵⁴ Kruchak, McKay, and Nelson, “Caledonia erupts: Emergency declared, schools closed; fists fly as natives and non-natives take to the streets,” A1. Mayor Trainer had requested army presence on April 20, as well.

²⁵⁵ Gamble, “Haldimand mayor pins vandalism on natives: Damage to power station could reach \$2 million: Trainer,” A1.

²⁵⁶ The Corporation of Haldimand County, “Mayor declares “State of Emergency”.”

²⁵⁷ The Corporation of Haldimand County, “Mayor declares “State of Emergency””; The Corporation of Haldimand County, “County establishes emergency shelter and emergency telephone number”; The Corporation of Haldimand County, “Power restored in Haldimand County”; The Corporation of Haldimand County, “State of emergency due to the power outage remains in effect.”

²⁵⁸ The Corporation of Haldimand County, “Mayor Marie Trainer declares and end to state of emergency in Haldimand County.”

²⁵⁹ Nelson, “Local folk broker barricade deal; a small group of Caledonia and native residents take charge and find a way to move ahead,” A6.

²⁶⁰ Zronik, “Natives remove main barricade: Protesters put focus on land claims,” A1.

²⁶¹ Office of the Premier of Ontario, “Ontario Premier Dalton McGuinty today issued the following statement regarding the events in Caledonia.”

commitment to building a strong community.” Invocations of togetherness may attempt to point towards ‘common ground,’ but do little to address realities. Later, in a release from the Ministry of Aboriginal Affairs detailing “Progress Made” in the “situation,” protesters’ leadership was reduced simply to “Argyle St. barricade removed and reopened to traffic.”²⁶² Weeks later, after protesters removed the remaining barricades over the highway bypass and rail line, McGuinty praised the “good influence” exercised, promising that the removals would “go a long way to get the community’s social and economic life back to normal.”²⁶³ When the barrier blocking the front entrance to the site was removed, Ken Hewitt declared that “I guess the visual barricade has opened up but I wouldn’t make a right turn down there and expect that we’d be welcome.”²⁶⁴

Early emphases on the perceived dangers of the reclamation proved tenacious. The County Council promised to ensure continued provision of emergency Fire and Ambulance Services to the community²⁶⁵ and deputy mayor Tom Patterson asserted that the potential for violence would drop if occupiers left during negotiations: “If they were to leave, people in Caledonia would certainly feel less anxious.”²⁶⁶ Toby Barrett similarly equated resolution with the end of the occupation. “All involved wish- and are working- for a peaceful resolution [...] The messages I’m getting are clear: everybody involved wants the situation ‘fixed’.”²⁶⁷ His account of mid-June hostilities between protesters and angry Caledonians relies on “eyewitness accounts” from Caledonians, implying that the violence was initiated by protesters.²⁶⁸ By August, local disgust for the occupation had risen to the point that trustees of a school neighbouring the site admitted that their desire to erect a wooden fence between the two was “not so much a case of danger, it’s a case of constantly viewing this.”²⁶⁹ The desire to avoid having to see the protest is only one part of an overall Canadian tendency to erase First Nations people from the landscape. To the

²⁶² Indian and Northern Affairs Canada and Ontario Ministry of Aboriginal Affairs, “Joint statement by Minister Jim Prentice and Minister David Ramsay.”

²⁶³ Leslie, “Caledonia talks back on,” A1.

²⁶⁴ Canadian Press, “Native protesters remove barricade in Caledonia,” A5.

²⁶⁵ The Corporation of Haldimand County, “A message to the citizens of Haldimand County regarding the demonstration at Douglas Creek Estates in Caledonia.”

²⁶⁶ Burman, “Henco gets \$12.3 million for land; McGuinty implores native protesters to leave Douglas Creek Estates property,” A5.

²⁶⁷ Barrett, “A plan for land dispute,” 8.

²⁶⁸ Pearson, “Barricades down, negotiations set for Thursday,” 11.

²⁶⁹ Bauslaugh, “Safety measures eyed for Caledonia school,” A1.

protesters, the suggestion sent the message “let’s do something ... plant trees, build a fence or something, so that the Caledonia people don’t have to look at the Indians any more.”²⁷⁰

Haldimand County’s published timeline of Douglas Creek occupation events indicates willingness to “participate in programs intended to restore any broken relationships between Six Nations and Haldimand County residents resulting from the Native demonstration.”²⁷¹ This framing, especially considered alongside other statements, clearly places the blame for any dysfunction in the relationship on Six Nations’ shoulders, ignoring the long history that led to the direct action:

Removal of the blockades will give everyone in the Caledonia community and Six Nations the opportunity to re-establish and further develop healthy community relationships which they have developed together over many years of living side-by-side as friends and neighbours. This is what all responsible community members want and what they deserve to have.²⁷²

The unspoken corollary is that any community members choosing to disrupt these apparently peaceful relationships are not “responsible” and do not “deserve” to have anything. Caledonia was also placed front and centre through a continual focus on the halt of development, lost business patrons, and an assumed reduction in housing values. There was no recognition of the fact that much of the lost business was caused by the loss of Six Nations shoppers alienated by racist assumptions brought to the surface by the reclamation. Similarly, the attention paid to Caledonia’s economic hardships served to overlook the economic difficulties suffered by Six Nations for decades due to unpaid rents and sales, as well as mismanagement of funds that did accrue. Ken Hewitt, spokesperson for the “Caledonia Citizens Alliance” which sprang up soon after the reclamation began, announced that “residents of Caledonia don’t support a transfer of land to the native protesters. This would cripple the economic development of the county.”²⁷³ One of the County Council’s first priorities was to issue a series of press releases encouraging people to frequent businesses in Caledonia, emphasizing the “economic impacts” and “economic

²⁷⁰ Hill, “Update July 25, 2006,” 2.

²⁷¹ The Corporation of Haldimand County, “Douglas Creek Estates demonstration chronology of events,” 2.

²⁷² Indian and Northern Affairs Canada and Ontario Ministry of Aboriginal Affairs, “Joint statement by Minister Jim Prentice and Minister David Ramsay,” 2.

²⁷³ Pearson, “Anger, frustration lead to revolt,” 9.

hardships” on the community and a need for outside expertise and funding.²⁷⁴ Frequently, the County expressed its appreciation for “the patience of citizens during this difficult time.”²⁷⁵ Though the Council called for “a comprehensive education program, either separately or jointly with Six Nations,” it framed the need for the program in terms of what “the land claims issue [...] means to existing or potential land owners in Haldimand County.”²⁷⁶ This not only asserts that Six Nations’ participation in such an education campaign is unnecessary, it focuses again on the implications to non-Native landowners and fails to recognize that many Six Nations people own homes in Caledonia and pay taxes to the municipality.

The immediate construction of a ‘we’ community and the focus on ‘normalcy’ illuminated the ways in which Six Nations-Caledonia relations had been only superficially ‘tolerant’ and ‘neighbourly.’ Many statements focused on the strengths of the relationship - indeed, the two communities *were* positively integrated socially, recreationally, and economically in many ways. According to the County’s official releases, “The Six Nations and Haldimand County residents have a long tradition of cooperation and living in harmony. The County will continue to work with all groups to ensure this is maintained.”²⁷⁷ Haldimand County Mayor Marie Trainer’s early comments acknowledged that Caledonian families and friends were divided on “the issue” but predicted that when the dispute ends, “we will still be living with one another. These are our friends and neighbours.”²⁷⁸ Deputy Mayor Patterson made a call for acceptance and friendship:

If we could just get more of that throughout the community, instead of having a racist attitude: well, I’ll give you an example. When I shopped at IGA when this was all going on, there were Natives coming in there. I’d say hi to them, hello, how are you, and try to make them feel welcome. Be neighborly. Speak out. You may not know who they are personally, but at least put out your hand and say ‘hi, I’m glad that we’re neighbours.’²⁷⁹

²⁷⁴ The Corporation of Haldimand County, “Province offers assistance to Haldimand County”; The Corporation of Haldimand County, “Province commits to communications and business assistance”; The Corporation of Haldimand County, “Haldimand County Council passes two motions regarding Douglas Creek Estates issue.”

²⁷⁵ The Corporation of Haldimand County, “A message to the citizens of Haldimand County regarding the demonstration at Douglas Creek Estates in Caledonia.”

²⁷⁶ The Corporation of Haldimand County, “Douglas Creek Estates demonstration chronology of events,” 2.

²⁷⁷ The Corporation of Haldimand County, “A message to the citizens of Haldimand County regarding the current demonstration at Douglas Creek Estates in Caledonia”; The Corporation of Haldimand County, “A message to the citizens of Haldimand County regarding the current demonstration at Douglas Creek Estates in Caledonia.”

²⁷⁸ Gamble, “Dispute is dividing community: mayor,” A7.

²⁷⁹ Muse, “Haldimand Deputy Mayor wants healing to begin,” 4.

At the first sign of dissatisfaction from Six Nations, however, the ways in which these apparently amiable relationships relied on buried history and the keeping of Indians in 'their place' were exposed. Though often well-intentioned, too often the calls for the bare minimum of 'tolerance' show a disturbing lack of awareness of the twisted history of the settlement of the Grand River and how Six Nations was gradually pushed onto the 'reserve' by encroaching settlers. OPP Haldimand Commander Brian Haggith believed that "the communities of Six Nations and Caledonia have lived alongside each other for hundreds of years, in harmony. When this is over, as it will be, we will continue to live together in harmony."²⁸⁰ There is an overwhelming suppression of difference, a definition and prescription of the terms of friendship: "it's our community and the future development of this community we're all concerned with."²⁸¹

These apparently benign misconceptions were accompanied by direct complaints about the actions that Caledonia's 'neighbours' chose to take. Already in May 2006, Haldimand Minister of Parliament (MP) Diane Finley declared that the role of negotiations was to get life in Caledonia "back to normal"²⁸² - a state of affairs in which Six Nations' land rights were ignored in favour of continuing development. County Councillor Buck Sloat was soon fed up with the shenanigans, too, declaring "I've had enough."²⁸³ Nearly two years later, fellow Councillor Craig Grice described how the reclamation had destroyed the very foundations of the community:

I would ask that each person remember that our number one goal is an end to the occupation. Everything else that has stemmed from the initial occupation, everything that we witness and everything that we deplore as a community is a symptom of this root. Our lack of faith and belief in our police service; our sleepless nights and feelings of desperation or abandonment; our anger at the rules of conduct, decency and tolerance which we have all lived by and hold dear to our hearts are being flouted by a few, are all very real [...] This community is our home. It is where we come for sanctuary, family, and friendship. It is where our children play, learn and grow before our eyes.²⁸⁴

²⁸⁰ Smith, "Townfolk getting testy over blockades," 2.

²⁸¹ Zronik, "Natives remove main barricade: Protesters put focus on land claims," A1.

²⁸² Pearson, "Feds working to resolve standoff: Finley," 3.

²⁸³ Knisley, "County seeks answers," 5.

²⁸⁴ Grice, "Spotlight on Caledonia," 6.

Though Grice is careful to avoid naming “the few” directly, his meaning is clear. There is no need for “tolerance” of those who are willing to disrupt Caledonia’s peaceful self-image. While the town was indeed affected by the government’s neglect of Six Nations, Six Nations’ own “desperation and abandonment” was accepted as the norm.

Though all comments drawing lines between “us” and “them” serve to racialize the dispute, some comments were more explicit in calling forth racial logics. In interviews on CBC-TV and on CBC Radio, Trainer claimed that Caledonia workers were hurt by the blockades because they did not have “monies coming in automatically every month.” The obvious allusion to the welfare cheques supposedly received by First Nations was greeted with shock. As Clyde Powless exclaimed, “How do my people have money coming in automatically? I’m shocked at you and I will never want to address you again.” Trainer backpedalled, claiming that she was explaining “the frustration of the Caledonia people” such as trades people who are not paid for work not done.²⁸⁵ “They needed to know what the people of Caledonia thought. I have to stick up for my people, just like they’re sticking up for themselves.” After the meeting in which Council agreed to distance itself from Trainer’s “personal comments” and “personal views,”²⁸⁶ Trainer apologized: “I apologize if I offended anyone. I had not intended to offend anyone. I made a mistake.”²⁸⁷ After blaming Six Nations for the transformer fire, she attempted to appear unbiased by sympathizing with those from Six Nations who disagreed with the reclamation: “I’m not painting everybody with the same brush, for sure. A lot of Natives are not happy about this at all. They feel they are all being made to look bad and that it’s damaging good relationships they have with people.” Again, the Council distanced itself from the comments, as there was no evidence as to who caused the fire.²⁸⁸ But the Caledonia “we” community proved remarkably durable.

For his attempts to convince protesters to dismantle their barricades after Caledonians refused to remove their own, David Peterson was called an “Indian lover” and accused, “anything the

²⁸⁵ Legall and Nolan, “Mayor lands in hot water: Apologizes to natives,” A1.

²⁸⁶ The Corporation of Haldimand County, “A message from Haldimand County Council regarding remarks made by the Mayor on Tuesday morning April 25, 2006.”

²⁸⁷ Knisley, “Marie muzzled,” 3.

²⁸⁸ Muse, “Haldimand council can’t seem to muzzle Mayor Trainer,” 1.

Indians want, you'll give them."²⁸⁹ This, despite his publicized role of focusing "on urgent concerns, aiming to restore calm and return the community to normal conditions, paving the way for discussions on the longer term, underlying issues."²⁹⁰ Racist threats also manifested in an email circulated in early June by a group promoting a "Caledonia Unites" rally, calling on residents to gather at the community centre to "restrict access to the arena to people who are not welcome in our community."²⁹¹ The scheduled youth game staged by Six Nations Minor Lacrosse Association was cancelled despite Council's attempts to relocate it. In a press release addressing the event, Council cited its "extensive history of positive relations with the Six Nations community" and invoked its "For Sake of Sport" policy, "which does not tolerate violence or racism."²⁹² And yet, later that month, Buck Sloat announced, "I don't believe a resolution will ever be accomplished by more and more long, drawn-out negotiations with the protestors ... we are constrained in our freedom to express ourselves or act resolutely by the sensitivities of those who are politically correct or endlessly patient."²⁹³

Despite such statements, the Canadian embrace of a vision of raceless multiculturalism, unity in progressive liberal thinking, and communities founded on growth and prosperity is evidenced in comments like this one from MP Finley early in the reclamation: "together with our friends in the Six Nations, we have established a long tradition where people from many different backgrounds can live side by side and I am confident that this will continue."²⁹⁴ Premier McGuinty spoke of the need to allow "find a lasting solution that allows all parties to renew their shared commitment to building a strong community."²⁹⁵ He does not explicate this vision further, but it does not appear to be one in which challenge to the status quo is welcome. The Ontario Provincial Police also makes calls for "tolerance and understanding while the peace process

²⁸⁹ Muse, "Numerous events lead to escalation of racial tensions," 17.

²⁹⁰ Ontario Ministry of Aboriginal Affairs, "Province appoints David Peterson to help resolve Caledonia situation."

²⁹¹ Nolan, "E-mail threatens lacrosse game; Caledonia citizens are being called on to 'restrict access' to Six Nations match," A2.

²⁹² The Corporation of Haldimand County, "Haldimand County Caledonia Centre remains open to everyone."

²⁹³ Sloat, "Problems are far from over," 4.

²⁹⁴ Finley, "Governments working hard for resolution," A9.

²⁹⁵ Office of the Premier of Ontario, "Ontario Premier Dalton McGuinty today issued the following statement regarding the events in Caledonia."

continues,”²⁹⁶ though with no specific mention of *who* or *what* needs to be “tolerated.” Federal and provincial Indian Affairs ministers agree that certain values are cherished by everyone.

“Common to all of us who live in this wonderful country and province are the underlying and important values of peace and justice. We cannot and will not be intimidated by the activities of the violent few who will sometimes seek to disrupt these cherished human values.”²⁹⁷ Hidden within this laudable call for peace and unity is a quiet suppression of difference and uniqueness.

The OPP’s call for harmony on Canada Day 2006 is a more transparent example of history overlooked.²⁹⁸ Referring to a “planned fireworks display along the historic Grand River,” police asked that everyone “come together, celebrate Canada’s rich history and enjoy the company of friends and loved ones,” promising that the police presence was planned to “ensure that peace is kept realizing that there is a level of tension arising from the land reclamation issue.” Again, the appeal for peace is commendable, but references to an “event that is symbolic of the goodwill that Canadians possess” present a disconcerting vision of Canadians “tolerating” Six Nations.

In contrast to Canadian identities free of difference and cleansed of historical wrongs, Six Nations often explicitly refers to racism and cultural genocide and views these issues as intimately connected to its present-day search for reparation. When the OPP brought in Aboriginal officers in the first days of the occupation, Dawn Smith said that although they were not from Six Nations, they were “our people and have a better understanding of what we’re going through.” However, they still “carry that badge” and could be brought in to enforce the injunction.²⁹⁹ Here there is a clear knitting together of identity and justice. Because the officers shared the experience of difference from mainstream Canada, they could be counted on to have some understanding of protesters’ perspectives, but their voluntary affiliation with the Canadian justice system divided them from the protesters in more crucial ways. After protesters removed the barricades, Hazel

²⁹⁶ Ontario Provincial Police, “Tolerance encouraged in Caledonia.”

²⁹⁷ Indian and Northern Affairs Canada and Ontario Ministry of Aboriginal Affairs, “Joint statement by Minister Jim Prentice and Minister David Ramsay,” 2.

²⁹⁸ Ontario Provincial Police, “Canada Day celebrations.”

²⁹⁹ Legall, “Police cars in Hagersville put natives on 'high alert',” A5.

Hill stressed that “safety is the biggest concern for our people [...] because of the anger and racism that was shown.”³⁰⁰ Six Nations’ *Road to the Reclamation* radio series explained,

Non-Native reaction and the perceived ‘neighbourly thing to do’ would have been for Caledonia to respect the land claim and demand that their government settle with Six Nations. Rather than take the high road [...] and stand with Six Nations, the choice was made to stand against the Reclamation [...] Racism that for years has been undercurrent, but replaced by a certain tolerance, has been resurrected, along with the hatred and violence that has been aimed directly and continually at Six Nations.³⁰¹

When the Hamilton Spectator revealed that the Royal Canadian Mounted Police had launched a special operation dubbed “Project O Caledonia” in the early days of the reclamation, the RCMP insisted that nothing should be read into the fact that many officers had special training in such areas as criminal intelligence, drug trafficking and border and customs control. In response, Hazel Hill exclaimed, “We’re criminals, drug-smuggling, gun-toting terrorists whose mission is to destroy the government. That’s the lump sum of the attitude.”³⁰² Court injunctions and warrants were read as “act[s] of aggression” and “attempt[s] to criminalize us and declare war against us.”³⁰³ She emphasized that “we have to stay focused on why we are here. We are a survival people. We’ve been here for thousands of years [...]. We’ve survived genocide practices. We’ve survived assimilation practices. We’re not going to disappear.”³⁰⁴ Leroy Hill also cited the imposition of the elected council: “In 1924, at the reckless stroke of a pen by your government, Six Nations received a death sentence as a people. Genocide was attempted on our people and we are fighting for our survival to continue as a distinct people to this day.”³⁰⁵

Discontent over the failure to eject the protesters from Caledonia soon funnelled into accusations of ‘two-tiered justice.’ According to this notion, Six Nations protesters were not punished for their misdeeds, while (white) Caledonians acting out their frustrations, often at Friday night ‘citizen’s rallies,’ were arrested. The uneasy and shifting definitions of “us” and “them” were

³⁰⁰ Zronik, “Natives remove main barricade: Protesters put focus on land claims,” A1.

³⁰¹ Green, “Road to the Reclamation,” 46.

³⁰² Nelson and Walters, “RCMP specialists at land dispute; Spectator Exclusive,” A1.

³⁰³ Healey and McKay, “Natives disregard judge’s decision; vow to ‘maintain position’ for now,” A1.

³⁰⁴ Puxley, “Caledonia braces for showdown,” A1.

³⁰⁵ Hill, “Canada owes us millions,” A10.

complicated further by the polarizing figure of Gary McHale, a resident of Richmond Hill, about one hour's drive from Caledonia, who continues to treat the 'two-tiered justice' campaign as his mission in life. Blazing into town sporting T-shirts with slogans like "Caledonia- Ipperwash. One law for all,"³⁰⁶ McHale still hosts a web site entitled CaledoniaWakeUpCall plastered with vitriol directed at the "terrorists" that disregard the rule of law. McHale's public call was for respect for regulation, complaining, "Native people think that they are above all laws."³⁰⁷ His campaign exposed and encouraged the attitudes of those who already resented the way they perceived the reclamation to have been handled by government and police. Disturbing endorsements of his racist messages, for instance, came from Mayor Trainer, who blamed OPP Commissioner Gwen Boniface for the "chaos" in Caledonia: "The native population have been feeling they can do anything, anytime, anywhere to anyone and the police will only watch."

What is interesting in the context of Caledonia's self-image and perceived 'normalcy,' however, is that although many agreed with McHale's basic premise, most also felt that as an outsider, he had no place stirring up trouble by organizing rallies and protests in Caledonia. McHale often found himself with surprisingly little support. The outsider bent on creating disturbance prompted a backlash: Caledonia was for Caledonians, neither for the Six Nations *or* the Gary McHales of the world. The OPP released a statement alluding to McHale's activities, declaring, "Sadly there are always some who take advantage of a fragile situation to further their personal causes or beliefs. The spreading of rumours or outsiders coming into the community to advance their own agenda by attaching it to this issue is counterproductive towards a peaceful resolution."³⁰⁸ Minister Ramsay even went so far as to rebuke the local Hamilton television station for referring to allegations made on Gary McHale's website: "It is deeply regrettable and disappointing that despite being advised by the Government of Ontario that the allegations

³⁰⁶ Marion, "Hundreds protest government inaction over native occupation in Caledonia," A1 This reference to Ipperwash appears to call for police to kill protesters, as the 1995 occupation of Ipperwash Provincial Park eventually culminated in the OPP shooting of protester Dudley George, resulting in a public inquiry and report which, among other conclusions, essentially called for less politicized and militarized police action.

³⁰⁷ Mick, "Polarizing figure takes on native protesters: Caledonia fight becomes full-time for Christian with troubled background," A15.

³⁰⁸ Ontario Provincial Police, "Key to successful negotiations and community safety: understanding, mutual respect and meaningful dialogue."

alluded to on a certain website are false, CHTV still chose to broadcast these.”³⁰⁹ In response to a rally planned in Caledonia for mid-October 2006, in which McHale was calling for 20,000 supporters to converge on Douglas Creek Estates, Ramsay released a statement that recognized the public’s “right to engage in peaceful protest” but expressed concerns about “potential risk to public safety” and publicly distanced the government from the rally. It is unclear whether Ramsay is drawing parallels or contrasts with Six Nations protesters in his call for “peaceful protest,” but his emphasis on public safety implies that disturbance is considered bad form. Despite apparent sympathy for his message, Trainer also announced that McHale would never get a permit from the County for his march: “I have disagreed with this march since the beginning. There is no doubt in my mind that someone is going to get hurt.”³¹⁰ The County closed the Caledonia community centre “due to the anticipated illegal rally,” enforced a No Stopping zone in the proposed rally area,³¹¹ and took pains to distance itself from the use of an altered form of the County’s logo on McHale’s website: “the use of the logo was illegal, as well as misleading.”³¹² MP Finley also issued a release declaring that the federal and provincial governments are already “fully aware and engaged” with the dispute in Caledonia: “We do have a relative peace at the present time, but as we all know it’s a fragile peace and I for one won’t support the efforts of those with no stake in our community” to draw attention to the reclamation.³¹³ Even the spokesperson for the Caledonia Citizens Alliance explained that “most people from the community are really torn. The community is concerned with the image of Caledonia, its future and its relationship with its neighbours. We don’t want to see any of that be affected negatively by this protest.”³¹⁴ In the end, only a few hundred people showed up to the October rally. Councillor Ashbaugh was “extremely proud of Caledonia for not supporting that rally which was imported into our community.”³¹⁵

McHale continued to visit Caledonia to raise money for his causes and foment trouble. Again in December 2006, Trainer asked him to stay away, explaining, “Caledonia people really don’t want

³⁰⁹ Muse, “CHTV scolded by Indian Affairs Minister,” 1.

³¹⁰ Dawson, “March back at DCE,” 1.

³¹¹ The Corporation of Haldimand County, “For Immediate Release.”

³¹² The Corporation of Haldimand County, “Re: CaledoniaWakeUpCall.com Website Misrepresentation.”

³¹³ Finley, “No need for rally says MP,” 4.

³¹⁴ Puxley, “Caledonia braces for showdown,” A1.

³¹⁵ Dawson, “McHale leads march,” 1.

him in their business. They'd like him to stay home,"³¹⁶ and "Haldimand County does not welcome anyone into our community who has the intention of breaking the law, getting arrested or inciting violence."³¹⁷ Though the press release refers to McHale's plans, the County's rejection of 'lawbreakers' also resurrects the spectres of 'lawless' protesters and 'two-tier justice.' McHale's rallies resulted in the creation of official "no-go" zones around Kanonhstaton, spaces of land tens of metres wide serving as no-man's land to separate protesters and their opponents.

Protesters had mixed reactions to McHale. After the October rally, Hazel Hill was pleased that the turnout for McHale numbered only in the hundreds and felt that the potluck hosted by Six Nations on the same day had gathered a larger turnout. Her take on the rally was that "McHale left all of those Caledonia people standing there and took off back to Richmond Hill after he gathered his pails full of money." She was glad that some Caledonia residents who disagreed with the reclamation nonetheless resented McHale's intrusion even more, stopping by the site to complain in common with protesters. "We gained an opportunity to invite these guys back to the site any time."³¹⁸ She also pointed out, however, that "it is unfortunate that we even have to deal with publicity hounds like Mr. McHale when we have the very real rights of the Six Nations people at stake here."³¹⁹ Despite awareness of the ill-will from many (though not all) Caledonians, protesters often publicly welcomed Caledonia citizens' rallies for their attention-grabbing potential. According to Clyde Powless, "it brings the town closer together. I don't see no reason why it should [spark tension]. They're saying the same thing I'm saying: Wake up, government [...] They're just adding to our voice, and I like it."³²⁰

What is remarkable about McHale and his publicity stunts is not his gripe, which was a common one, but the way in which his status as an outsider reinforced 'we' sentiments in the community. His message was welcome, but Caledonia appears to be a place in which one either fits in - or definitely does not belong. In this way, the causes of McHale and Six Nations protesters were similarly excluded from validation and acceptance in Canadian imaginaries and value systems.

³¹⁶ Nolan, "Mayor urges organizer to cancel second Caledonia march," A14.

³¹⁷ The Corporation of Haldimand County, "Caledonia Land Dispute."

³¹⁸ Hill, "Update from Grand River October 19, 2006," 1.

³¹⁹ Windle, "McHale's flag flap flops," 1.

³²⁰ Graham, "Talks on Caledonia occupation on hiatus," A1.

These discourses were further explicated in controversies over the placement of Haudenosaunee and Canadian flags. The 'flag flap', as it was continually christened by media, constituted a powerfully physical manifestation of anxieties over terms of citizenship, rights and freedoms. The flag is meant to invoke Canadian identities of tolerance, multiculturalism, and patriotism, but its use in this situation certainly stood for opposite values. In December 2006, a group of about thirty people, including McHale, attempted to plant Canadian flags across the street from Kanonhstaton, citing support for troops in Afghanistan. Nobody bought the line, and police stopped them. One Caledonia resident living directly next to the reclamation, who had been especially affected by the presence of protesters, declared that "I cannot believe that we cannot put up a Canadian flag in Canada in this spot right now. It's disgusting, I'm not even proud to be a Canadian."³²¹ Pointing out that protesters had erected Haudenosaunee flags on Douglas Creek Estates, McHale declared, "It's not illegal to put up a Canadian flag. No laws are being broken."³²² Another attempt at a flag-raising rally in January 2007 was met with disgust by the OPP, who declared it "irresponsible," "provocative," and "mischief-making" but also took care to point out that "lawlessness will not be tolerated."³²³ Both McHale and a fellow organizer were arrested and later released. A few days later, Hazel Hill held out an olive branch, but made it clear that flying flags other than Haudenosaunee flags was a sign of respect, not subordination.

To put an end to the Canadian flag issue, and in respect of both Canadian and American supporters who have lent their time and support to Six Nations and sent flags to Kanonhstaton, and to reflect the dual citizenship of our peoples, Kanonhstaton will be flying both Canadian and American flags along with the Haudenosaunee flag. But let us be clear about this. This is about the land. Our land. Our rights. It is unfortunate that some people see this for what they can gain while using the insecurities and fears of the Caledonia residents to promote the goals of hatred, racism and bigotry.³²⁴

It was not enough. A month later, Trainer called the site a "mess": "You're in the middle of a lovely town and you've got this unsightly thing in the middle of it. It doesn't help anything. The occupiers need to leave and the flags need to come down."³²⁵ MPP Barrett complained that:

³²¹ Brown, "OPP stop flap over flags in Caledonia," A9.

³²² Nolan, "Mayor urges organizer to cancel second Caledonia march."

³²³ Ontario Provincial Police, "Rally is irresponsible."

³²⁴ Dawson, "Natives shout 'Go home Gary'," 1.

³²⁵ Puxley, "Resolving Caledonia dispute requires 'patience'," A1.

For many, the year has created a numbing acceptance of what would normally be an unacceptable state of affairs. Case in point- there are currently Warrior and Haudenosaunee flags flying above the Canadian and American flags on the main street of Caledonia. Would this breach of flag protocol have been the case a year ago? Would this be acceptable in any other town?³²⁶

The number of Canadian flags flying in Caledonia seems to have increased dramatically over the past few years. They don't seem to be saying "we love our country" so much as "back off, this is our country." Thickly swaddled in rule-of-law discourses, flags are material markers of claim-staking, manifesting physically what are often otherwise abstract debates over justice and citizenship. Canada's emphasis on immediate geography – Caledonia - inevitably conceals the dimension of history. Its focus on the hardships of Caledonians ignores Six Nations in the solution. The focus on "progress made in Caledonia"³²⁷ is a powerful frame through which we are invited to view the dispute. Perhaps Trainer summarized it best: "Everyone agrees it's a land claim. It's the occupation that is a problem. We just can't go through another summer like we have. The people just can't handle that. Get the police back on the 6th line and clear the site."³²⁸ Overall, the discourses framing the occupation in its immediate geographic context within the town of Caledonia prioritized 'normalcy,' revealing *and reinforcing* a Caledonian space which did not welcome disruption of its continual growth and comfortable persona claiming 'tolerance' and 'friendship' with its neighbours to the west. The actual dispute over land was backgrounded to Caledonia's crisis, and the injustices fought by Six Nations were buried in the rubble.

Relationship or jurisdiction?

As discussed earlier, the federal government quickly presented the reclamation as an illegal action, a policing matter regarding property title which did not require consideration of the historical, geographical, and cultural contexts within which it occurred and which belonged under provincial jurisdiction. In emphasizing these geographic and legislative boundaries of jurisdiction, Canada erases the history of nation-to-nation relationship with the Haudenosaunee assumed

³²⁶ Barrett, "Unhappy Anniversary Caledonia - February 28," 8.

³²⁷ Ontario Ministry of Aboriginal Affairs, "Media advisory - Minister responsible for Aboriginal Affairs and Haldimand County Mayor available to media."

³²⁸ Nolan, "Caledonia convoy set to roll today," A10.

from the British Crown at the creation of Canada, as well as Six Nations' right to have its land grievances addressed. This continuation of colonial relationships naturalizes spatialized power relations by assuming rights to land and its management, while also rendering these histories of power invisible. The jurisdictional battle siphoned government representatives' energy away from actual negotiations for several months. To Six Nations, the question of land rights was intimately woven with assertions of sovereignty, and the reclamation could only legitimately be addressed by Canada in right of the Crown with whom the original treaties had been made.

Though all parties other than the feds themselves regularly called for the federal government to 'deal with' the occupation, reasons differed. To the provincial and municipal governments, it was a matter of jurisdiction: since Indian Affairs had belonged to the feds since Confederation, the occupation and Six Nations were *their* problems. Though they were correct according to Canadian legislative distribution, this enduring colonial attitude obscured both the injustices done to Six Nations and its unique status in Canada. As Trainer concisely summarized, "They're wards of the Crown."³²⁹ Minister Prentice agreed with the general sentiment, but denied responsibility:

The Constitution is very clear. Property and civil rights, the administration of justice and policing are all provincial responsibilities. What's missing here is the justification for the province to say this is a federal obligation to pay for this. While the federal government has responsibility for Indians, that doesn't override provincial law.³³⁰

OPP Commissioner Fantino made a direct call. "It has to be a federal response here. These are federal issues that go back to treaties."³³¹ But according to Prentice's spokesperson, it "has nothing to do with the federal government. This isn't a lands claim matter. The actual root of the problem is not a land claim. For the time being, it's a protest."³³² Finley agreed: "[W]hile the federal government always has an interest in aboriginal issues, land development and policing are under provincial jurisdiction."³³³ The *lack* of interest in "aboriginal issues" is palpable, though Prentice did promise that "like all Canadians," he would "continue to watch the situation as it

³²⁹ Appleby, "Mayor hangs on despite Caledonia," A18.

³³⁰ Puxley and Ditchburn, "Stop acting like kids, politicians scolded," A1.

³³¹ Puxley, "Bill for Caledonia standoff at \$55 million: PC leader," A1.

³³² Bailey, "Politicians point fingers, dodge duties, critics say," C2.

³³³ Finley, "Governments working hard for resolution," A9.

unfolds.”³³⁴ Prime Minister Stephen Harper was dismissive. “Look, I have a lot of sympathy for a lot of people who have done nothing wrong, have been severely inconvenienced [...] It really is a provincial land use matter and a provincial law enforcement issue.”³³⁵

These comments frame the dispute as an inconvenience, a dispute between private parties, and a criminal action. Harper does not mention having any “sympathy” for First Nations whose land claims have gone unaddressed for decades. The initial response of the federal Department of Indian and Northern Affairs, in fact, nearly a month after the reclamation had begun, consisted merely of appointing a “fact-finder” to undertake a “fact-finding initiative related to the ongoing situation involving members of the Six Nations of the Grand River near Caledonia, Ontario.”³³⁶ Confederacy spokesperson Leroy Hill pointed out the inadequacy of this proposal. “The federal government’s runner is a positive first step but the federal government needs to take further steps and send a delegate with a stronger mandate.”³³⁷ In early April, the fact-finder, Michael Coyle, explained that the federal and provincial governments:

each [take] the position that it is confident that if the Crown is liable for wrongdoing in relation to Six Nations’ land claims, it is the other government that is legally responsible [...] It is difficult to see how the Crown will be able to reach a settlement of Six Nations’ land claims unless Canada and Ontario can agree on a reasonable sharing between them of the Crown’s contribution to any settlement.³³⁸

Writing to the Six Nations Confederacy Council later that month, Minister Prentice continued to sidestep federal responsibility.

As mentioned in my April 13th letter to the Haudenosaunee Six Nations Confederacy, I have taken note of your concerns. The issues that you raise in your letter are important ones. I have addressed the areas which fall under federal jurisdiction [...] I fully subscribe

³³⁴ Howlett, “Standoff at Caledonia: McGuinty comes under fire in legislature as natives resist predawn OPP raid,” A1.

³³⁵ Nolan, “E-mail threatens lacrosse game; Caledonia citizens are being called on to ‘restrict access’ to Six Nations match,” A1.

³³⁶ Indian and Northern Affairs Canada, “Michael Coyle appointed to undertake a fact-finding initiative in relation to the situation in Caledonia.”

³³⁷ Marion, “Confederacy chiefs call for talks on land claims: Throw support behind Caledonia housing development occupation,” A1.

³³⁸ Coyle, *Results of fact-finding on situation at Caledonia*, 16.

to the view that traditional beliefs, values, and practices of Six Nations need to be better understood by governments and local interests. I also believe that a community/public education campaign on the history of the Six Nations land interests will be beneficial ... we are prepared to fund processes to support these two objectives, as well as processes to address internal Six Nations governance issues.³³⁹

Not only does this letter attempt to trivialize Six Nations' land rights by indexing them as "traditional values," the paternalism in the offer to assist Six Nations with its internal governance implies that problems are all Six Nations' fault, resulting from an inability to govern itself.

Political difference and conflict, of course, is characteristic of both Six Nations and Canada. The jurisdictional battle between federal and provincial governments is one clear example, while there are also general trends of difference between Liberal and Conservative approaches to relationships with Aboriginal nations. Public statements indicate that the Liberal provincial government is at least somewhat inclined towards recognition of grievances. For instance, Brant Liberal MP Lloyd St. Amand made public efforts at contextualization: "I know enough about the background issues of land claims generally to say the level of impatience and frustration is understandable and, frankly, justifiable. This and other land claims should have been dealt with well before now. Unfortunately, the manifestation of that frustration [the occupation] is getting the lion's share of the public attention."³⁴⁰ Conservative representatives for Haldimand, MPP Barrett and MP Finley, as well as Conservative minister Jim Prentice, on the other hand, are more brusque. Echoing Harper's earlier brush-off, Barrett decries "putting political sensitivities before the law," explaining, "I oppose negotiating until the rule of law is restored."³⁴¹

Political difference at Six Nations is also alive and well. However, Canadian representatives often construct Haudenosaunee political conflict differently, blaming negotiation failures on 'internal governance issues' at Six Nations. Federal negotiator McDougall, for instance, explained that "[w]e are urging them that this is once again a historic opportunity."³⁴² Narratives presented by the Department of Justice (DOJ) emphasized Six Nations' disunity in the Revolutionary War,

³³⁹ Prentice, "Letter to Six Nations 'Iroquois' Confederacy."

³⁴⁰ Windle, "St. Amand says talks must continue," 3.

³⁴¹ Barrett, "Dispute is talk of the land," 4.

³⁴² Burman, "Confederacy is native voice; Ottawa to negotiate with hereditary chiefs," A11.

implying that the current makeup of Haudenosaunee people at Grand River is somehow inauthentic:

The Six Nations divided, not only between Nations but also within them. Many Mohawks, but not all, and some members of the other Six Nations rallied under the leadership of Joseph Brant and took an active part in the revolution on the side of the Crown. Brant's followers also included a number of non-aboriginal Loyalists, settlers on the New York frontier.³⁴³

Political difference within Six Nations is openly acknowledged as such. The conflict between the elected Band Council and the Confederacy, for instance, is well known and publicized. In the early days of the reclamation, however, the Band Council sent a letter to Prentice and Ramsay requesting that "Indian and Northern Affairs Canada recognize the lead of the Haudenosaunee Confederacy Council in this matter. The Elected Six Nations Council shall remain in an active supporting role."³⁴⁴ In practical terms, this meant that Chiefs Allen MacNaughton and Leroy Hill, who had stepped up as Confederacy spokespersons, became the official representatives for Six Nations in the negotiations. However, Elected Chief David General continued to have a voice at the discussions, and opinions varied as to the level of support for the respective councils.

Spokespersons for the reclamation and the on-the-ground protesters, especially Janie Jamieson and Hazel Hill, are avid Confederacy supporters: the Band Council is seen as being in collusion with the Indian Act and policies of assimilation.³⁴⁵ Hill believes that support for the Confederacy sits at around 85% of the population, but also acknowledges that "division and factionalism" exist within Six Nations. In an emotional update sent to supporters, she admits that although she did not want to "give the Crown the satisfaction of seeing what's happening," she feels that "because they are responsible, they are going to hear it too." She ends with a call for unity. "Is that all we think of the future generations? Or are we going to gather our Nations together, strengthen each other and stand together as one, like we did on April 20th?"³⁴⁶ In the end, Hill believes that:

³⁴³ Department of Justice Canada, "Canada's position on the history of the surrender of the Plank Road Lands (including the Douglas Creek Estates): Summary of the Narrative presented by Michael McCulloch to the Plank Road Lands Side Table," 1.

³⁴⁴ Hill, "Grand River update from Hazel Hill, March 10, 2007."

³⁴⁵ Hill, "Hazel's update of April 12, 2007."

³⁴⁶ Hill, "Hazel's update."

[T]he only 'internal governance issue' is the mental, spiritual and emotional conflict going on inside the minds of many individuals who have grown up only knowing that [elected] system [...] and that IS a direct result of OPPRESSION and is PROOF of the attempted Cultural Genocide of our people.³⁴⁷

She argued that although "Administrative Chief" David General spoke of allowing the Six Nations people to select their governing body, "the people of Six Nations made that very clear on April 20th 2006 when we took back our land from another forced invasion initiated by the Crown, and we put the Confederacy Council in the lead to deal with our lands and our treaties."³⁴⁸ General, meanwhile, often objected to the inclusion of many Six Nations perspectives in negotiations.³⁴⁹ He was replaced as Elected Chief in November 2007. His successor, Bill Montour, favoured a relationship between the Confederacy and Elected Councils according to which the Confederacy would be responsible for eight points of jurisdiction: the Great Law of Peace, the Haudenosaunee constitution; lands; treaties; international relations; citizenship and membership; the installation of Confederacy chiefs; preservation of the ceremonies; justice and law. The elected council would address "administrative aspect[s] of community life;" he did not intend to "interfere with what's already been started" or to sit at the negotiating table as a spokesperson.

At any rate, despite implying that Six Nations' political tensions caused problems, federal representatives' initial abstraction from the dispute caused significant delays in getting negotiations under way. MP Finley's "Caledonia update" dated July 11, 2006 (still "current" on her web site in spring 2007) indicated her abstraction from the land dispute:

Thank you to everyone who has contacted my office regarding Caledonia this week. Discussions at the negotiating table are progressing well, and all parties are encouraged by the co-operative manner in which the discussions are being carried out. I have every reason to believe these talks will continue in a productive fashion and I will continue to update you as soon as new information becomes available.³⁵⁰

³⁴⁷ Hill, "Grand River update from Hazel Hill, March 10, 2007."

³⁴⁸ Ibid.

³⁴⁹ Puxley, "'Too many voices' hindering Caledonia talks: Six Nations chief," A1.

³⁵⁰ Canadian Press, "Finley floats a suggestion," A15.

At one point, relations between federal and provincial governments deteriorated so much that Prentice cancelled a scheduled Ottawa meeting with Ramsay, in response to Premier McGuinty's attempted shaming of the federal government the day before.³⁵¹ Ramsay issued a press release expressing his disappointment at "another example of the federal government failing to live up to its obligations to the people of Ontario."³⁵² While he also points out the federal government's "too slow" pace of settling land claims, Ramsay foregrounds the occupation by referring to the Caledonia "situation." His characterization of "the people of Ontario" is unlikely to include the deviant Six Nations along with the long-suffering Caledonians. Attempting to place this most recent squabble in context, Allen MacNaughton commented,

It is with great concern that the [Haudenosaunee] find the Crown, in right of Ontario and Canada, engaged in playing politics in the media, while causing further delays in finding a resolution to the land dispute at Douglas Creek and Six Nations land rights issues across Ontario [...] Six Nations land issues are the oldest in the country. The [Haudenosaunee] have been waiting over 200 years for answers from the federal crown over what happened to Six Nations lands and trust funds.³⁵³

He also wryly observed that he was "aware the prime minister is fairly new. I'm giving him the benefit of the doubt. As far as I'm concerned, they do have the mandate to deal with issues at hand. The land rights are a federal issue."³⁵⁴ Mayor Trainer agreed that Canada's behaviour was childish; however, her account placed Caledonians as the victims: "We're in the middle. We're the ones suffering. I'd like them to stop acting like children. I wish they would quit holding Caledonia residents as hostages. It's pretty frustrating."³⁵⁵ Eventually, the federal government agreed to take a leadership role in the negotiations.³⁵⁶

To Six Nations, federal disregard flew in the face of the nation-to-nation relationship it insisted on: the Canadian government, in right of the British Crown, was responsible for taking up the other end of the Covenant Chain. The slap in the face was even more painful since Six Nations

³⁵¹ Leslie and Cohen, "Prentice cancels meeting on Caledonia standoff," A1.

³⁵² Ontario Ministry of Aboriginal Affairs, "Statement from Minister Ramsay- Minister responsible for Aboriginal affairs."

³⁵³ MacNaughton, "Press release from Six Nations Confederacy Council," 4.

³⁵⁴ Nolan, "Caledonia has hydro, backup repairs in works; state of emergency could be lifted Monday," A5.

³⁵⁵ Puxley and Ditchburn, "Stop acting like kids, politicians scolded," A1.

³⁵⁶ Howlett, "Ottawa accepts leadership role in effort to quell Caledonia dispute," A7.

felt that broken promises and abandonment of this relationship had caused the need for the reclamation in the first place. As Dawn Smith explained, “I’m not surprised. I am disappointed the Canadian government has failed our people again. This is a federal matter. It has no business in a provincial court. They have no jurisdiction. They need a history lesson.”³⁵⁷ Leroy Hill contextualized the relationship by recalling Six Nations’ continual assertions of sovereignty:

We are not British subjects, nor Canadian. We have a birthright to live freely under our own laws and customs. This is also guaranteed by treaty with your Crown. We have never abandoned this birthright nor do we intend to. The British knew this and respected this, as did the Canadian Government in my Grandfather’s time as a chief. For peace, mutual respect and friendship to be maintained between us, Canadians need to realize that it is an international crime to deny a nation of its right to home-rule. This is not something new; we have always adhered to this and shall continue to [...] In the 1920s we sent one of our Chiefs (on our own passport) named Deskaheh to look overseas [...] ³⁵⁸

Six Nations representatives continually frame the relationship with Canada in terms of alliance and point out that much of Canada was, in fact, built on Native lands and monies. As Hazel Hill exclaims, “The TRUTH is, Six Nation’s Territory is not part of Canada. CANADA IS PART OF THE SIX NATIONS TERRITORY!!!!”³⁵⁹ And to Leroy Hill, “The issue of sovereignty and dollars go hand in hand [...] Six Nations believed our allies (Canada) when they said they would be responsible trustees of our monies [...] In between the 1800s and early 1900s, Six Nations went from being in a sound financial and independent state to being dependent on Canada.” He describes how Six Nations’ money was taken without authorization to invest in projects such as the Bank of Montreal, McGill University, the University of Toronto (King’s College), Law Society of Upper Canada, Montreal Turnpike, and the Welland Canal.³⁶⁰

At the gates of Douglas Creek Estates, signs depict Six Nations soldiers fighting in various Canadian wars.³⁶¹ As Allen MacNaughton explains, “Our people paid a heavy price in these wars. We need to understand why events in Caledonia happened because it’s a long history. It seems

³⁵⁷ Legall, “Natives vow to continue protest after court blow,” A8.

³⁵⁸ Hill, “Canada owes us millions,” A10.

³⁵⁹ Hill, “Update from Grand River October 19, 2006.”

³⁶⁰ Hill, “Canada owes us millions,” A10.

³⁶¹ Zronik, “All quiet at occupation site, but protest takes personal toll,” A12.

to me that when we were no longer militarily useful, we were marginalized.”³⁶² Over and over, Six Nations emphasizes the need to rejuvenate the relationship with Canada:

Today, we are left with trying to get the Crown to uphold its end of this Treaty Relationship. The task has never been more in the forefront as it has been since the land reclamation of Kanonhstaton (former Douglas Creek Estates) [...] The pattern of appropriating Six Nations’ lands and resources began when the settlers arrived, and has not stopped.³⁶³

Shortly after the OPP raid, Six Nations Clan Mother Doreen Silversmith visited the United Nations in Geneva to emphasize Six Nations’ grievances and sovereignty. The escalation of these attempts at international diplomacy and recognition provided another signal of the importance of the reclamation in tying land to sovereignty. Her statement, delivered on May 1, requested international support and mediation at the negotiations from “sovereign” Six Nations’ “friends and allies,”³⁶⁴ linking longstanding government policies to the need for the reclamation and invoking what the Clan Mothers view as “businesslike” practices from an entity that, founded *on native land* as it was, has no right to call itself a nation-state.

Despite asserting the Confederacy Council’s support for the protest, Allen MacNaughton took pains to explain that negotiations would only prove productive if attention was actually paid to what had caused the reclamation in the first place. “We do not control the protesters. We have influence over them but that influence depends on our ability to convince them serious attention is being paid to the causes of the protest.”³⁶⁵ He had addressed Canada early on: “The Confederacy Council is not an interest group or a splinter group. We are calling on Canada to open talks with the Confederacy Council.”³⁶⁶ Canada’s acceptance of the Confederacy Council’s lead role could be read as tacit acknowledgement of Six Nation’s sovereignty, since the Confederacy Council continuously demanded nation-to-nation negotiations. However, they carefully avoided this recognition, and initial statements regarding “the need to recognize the

³⁶² Gamble, “Some 'divine intervention',” A5.

³⁶³ Hill, “Update from Grand River.”

³⁶⁴ Nelson, “Clan mothers seek UN's help; Doreen Silversmith says 'genocidal practices' of Canada must stop,” A6.

³⁶⁵ Nelson, “Rude awaking for young protester,” A1.

³⁶⁶ Pearson, “Fact finder arrives,” 1.

Confederacy”³⁶⁷ were vague. A representative for the Ministry of Indian and Northern Affairs later indicated that the decision to acknowledge Confederacy authority was linked to the pressure of the occupation: “Clearly there’s a sense of urgency. It’s a volatile situation and we’re being flexible by dealing with the hereditary council.”³⁶⁸ In a pre-raid letter, Prentice linked the potential for success in the negotiations to withdrawal of the protesters: “I understand that, as of last night, the lead responsibility for causing this to happen now lies with the Confederacy.”³⁶⁹

The Negotiation Framework eventually agreed upon explained that “we do hereby re-commit to guiding ourselves based on the relationship long ago established between the Haudenosaunee/Six Nations and the Crown. This relationship shall be guided by the principles of Respect, Peace, and Friendship, as per the Silver Covenant Chain and the Two Row Wampum.”³⁷⁰ However, the quarrel between Canada and Ontario³⁷¹ re-emerged from time to time in calls from Ontario for federal compensation.³⁷² The jurisdictional battle ‘over’ the reclamation effort marked Douglas Creek Estates as part of Canadian space to which the Haudenosaunee have no real rights, and served to contour the discourses and geographies of the dispute according to Canadian versions of history and relationship with First Nations. While differences of opinion within Canadian government circles were treated as normal and acceptable, political difference within Six Nations was consistently indexed as a marker of disunity and a significant impediment to resolution, further erasing the Haudenosaunee from legitimate political spaces. The discourses enacted at Caledonia clearly demonstrate how Canadian nation-building projects and imaginaries are reinforced by – indeed, predicated on – these deletions of First Nations’ sovereignty and legitimacy, which began in colonial relationships of old and persist in colonial relationships of

³⁶⁷ The Corporation of Haldimand County, “Haldimand County Council statement re: Douglas Creek Estates Occupation.”

³⁶⁸ Pearson, “Talks fail to end protest; Henco Industries considering legal action against OPP,” 7.

³⁶⁹ Prentice, “Letter to Six Nations 'Iroquois' Confederacy.” The implication that the government would only negotiate if the protesters were removed, of course, turned out to be an empty threat. Negotiations were actually stepped up after the April 20 raid and the construction of the blockades, bearing out the initial premise of the protesters: only direct action gets attention from the government.

³⁷⁰ MacNaughton, McDougall, and Stewart, “Negotiation framework.”

³⁷¹ Indian and Northern Affairs Canada, “Exploration resolution process: Joint statement of Canada, Ontario, and Six Nations.”

³⁷² Puxley, “McGuinty wants Ottawa to pay up,” A1.

today. If Six Nations were to be recognized as a nation rather than a relic minority, Canada would be obliged to manage landscapes with consideration of its priorities, too.

‘Rule of law’

We have seen how the construction of the dispute as a criminal matter led to the attempted removal of the occupiers, and how accusations of ‘two-tier justice’ worked to create an ‘us’ and ‘them’ in Caledonia. There was hope, once negotiations were firmly underway, that the protest would soon end. But as the negotiations failed to produce ‘results’ – that is, the physical occupation of Kanonhstaton continued – a discourse focusing on ‘rule of law’ played an ever-increasing role. Patience began to run thin and even superficial ‘tolerance’ was preached less often. In accessing colonial legal discourses that *still* shape Canadian space according to settler norms, and in continual lack of attention to First Nations’ land rights, Canadian spokespersons created a literal and figurative battle ground in which third parties such as Henco are placed in between Six Nations and the Crown. Six Nations often re-articulated this ‘rule of law’ discourse, pointing out that not only do the Haudenosaunee have their own Great Law of Peace, but that Canada is breaking its own law in failing to pay for lands, continuing to develop on disputed lands, and failing to consult and accommodate First Nations in land management decisions.

Labelling the reclamation ‘illegal’ made the equation with ‘wrong’ an easy (though not logical) leap that quickly constructed protesters’ actions as immoral. Despite warnings that Henco and Haldimand Council had received to inform them of the disputed ownership of the Douglas Creek Estates lands, provincial and municipal land policy meant that the developers, in possession of provincial title, were in the right. Mayor Trainer’s early comment neatly summarized local sentiments: “Somehow we have to get back to the rule of law in Haldimand County [...] It’s so upsetting to everyone. It just seems a disrespect for the laws and Canada.”³⁷³

Ontario Justice David Marshall had issued the first injunction against the protesters at Henco’s request on March 3. As Don Henning rationalized, “We’re sympathetic to Six Nations and some

³⁷³ Nolan, “Finley: Send cops to clear out natives: MP wants Caledonia returned to ‘normalcy’,” A9.

of their historical causes,” but “we have done nothing wrong or illegal. The real dispute is with the federal government.”³⁷⁴ In a March 16 hearing confirming the initial injunction, Marshall commented, “The question of the ownership of the land is not the essence of why we are here today. We are looking at the issue of contempt and the right of the owner to access his land.”³⁷⁵ Haldimand County Council felt similarly. As Councillor Buck Sloat put it (with unintentional irony), “the longer this goes on the harder it will be to resolve. They are breaking the law. The occupation of someone else’s land is illegal.”³⁷⁶ After the government issued the moratorium on construction at Kanonhstaton, Henco’s lawyer asserted that “My clients are law abiding. Clearly these protesters are breaking the law and at the end of the day, the government is capitulating. And that makes my client furious.”³⁷⁷ MPP Barrett went so far as to answer a reporter enquiring about possible links between organized crime and the reclamation, “In my view, organized crime makes use of native communities and certain rights and privileges that residents of native communities have. There are certain things you can get away with that you could not do in, say, downtown Toronto.”³⁷⁸

Hazel Hill explicitly addressed the ongoing rumours. “In spite of the anti-Six Nations propaganda by the colonists, we’re not re-routing Caledonia’s water, we haven’t built bunkers or stored ammunition, we’re not toting guns or terrorizing the citizens of Caledonia. These made-up stories are distressing.”³⁷⁹ But the government was not shy about expressing support for Caledonians complaining of noise and intrusions by rowdy protesters. MP Finley complained,

The barricades are down and the national media have left, but this does not mean that life is anywhere back to normal in Caledonia. As many of you know, I have been in Caledonia meeting one-on-one with residents who have been particularly hard-hit by the protest. They were passionate yet steadfast as they shared their stories with me about the struggles they face managing their day-to-day lives and living with uncertainty and aggression.³⁸⁰

³⁷⁴ Canadian Press, “Developer says he’s ‘done nothing wrong’ as native protesters occupy subdivision,” A4.

³⁷⁵ Pearson, “Natives defy arrest warrant,” 1.

³⁷⁶ Pearson, “Fact finder arrives,” 1.

³⁷⁷ Pearson, “Moratorium shocks Henco lawyer,” 18.

³⁷⁸ Puxley, “Protesters intimidating Caledonians, says MP,” A1.

³⁷⁹ Pearson, “Protesters pose no threat: Hazel Hill,” 2.

³⁸⁰ Finley, “Finley meeting with residents,” 4.

The shadow of Ipperwash Park hung over the reclamation. When the Ipperwash Inquiry concluded in August 2006, Marie Trainer grumbled that “two-hundred per cent, it’s affected us. It’s why everyone is so afraid to enforce the rule of law for everyone, because of what happened there. They don’t want to see it happen here.”³⁸¹ As Buck Sloat put it,

I don’t believe a resolution will ever be accomplished by more and more long, drawn-out negotiations with the protesters ... we are constrained in our freedom to express ourselves or act resolutely by the sensitivities of those who are politically correct or endlessly patient... I want to be sure that the laws applied to them are the same laws, which would penalize me- or anyone else on Canadian soil – if I committed such outrageous acts.³⁸²

The ‘rule of law’ was one of MPP Barrett’s preferred methods of criticizing the Ontario Liberals’ approach to the reclamation. In August 2006, he wrote in an editorial that “far from being an abstraction, the rule of law is central to our political and economic systems. In order for any society to achieve peace and stability, there must be a deeply rooted, and widely accepted, decision-making apparatus.”³⁸³ A year later, he was still calling for enforcement.

When faced with difficult issues, government must always remember that the rule of law is not negotiable. The rule of law is of particular interest along the Grand River and across sand country. Illegal land seizures, the illegal tobacco trade, and the burden of government regulation have done more than cripple our area’s economy – they have caused many to wonder whether we are all governed by the same set of laws [...] Last summer, after purchasing the occupied land at Caledonia, Premier McGuinty sent taxpayer-funded lawyers to court to then legalize the land occupation [...] Aboriginal people have many legitimate grievances [but] government should pursue civil remedies against those who lead protests that cross the line between free speech and disregard for public safety and the rule of law [...] It’s time for all elected representatives to view the rule of law as non-negotiable – and to keep that in mind when confronting new issues as they arise.³⁸⁴

Barrett places the ‘rule of law’ above consideration of context and the justice of the law, and displays a surprising lack of knowledge of Six Nations’ frequent assertions that, in fact, they do

³⁸¹ Puxley, “Standoff taught police, province,” A1.

³⁸² Sloat, “Problems are far from over,” 4.

³⁸³ Barrett, “Area must return to rule of law,” 4.

³⁸⁴ Barrett, “One law for all - period,” 10.

not believe themselves to be governed by Canada's laws. Barrett also privileges his idea of the 'rule of law' but does not consider that Canadian law also requires payment for purchases.

There were occasional limits to local politicians' tolerance of these statements. When Provincial Opposition and Progressive Conservative party leader John Tory declared that he wanted to have a "friendly but firm chat" with Six Nations leadership, saying that "we cannot have a situation like that, where people take the law into their own hands," Brant County MPP Dave Levac (whose riding includes Six Nations), retorted, "I believe that John Tory is trying to make a false accusation that there is not one law [...] in fact, there have been charges laid and Native people jailed. There is one law and it is being respected." Brant MP St. Amand pointed out that "the phrase 'friendly but firm' [...] smacks of the parental, paternalistic approach by some public figures which has advanced nothing whatsoever [...] This is adult to adult, people to people."³⁸⁵ Often, however, the law was invoked as its own justification, without regard to its history and construction and whether it reflects principles of justice. For instance, the federal response to the Confederacy's account of the history of the Douglas Creek lands professed to be "bound by our understanding of Canadian law"³⁸⁶ and Ontario negotiator Jane Stewart declared that "Ontario stands behind its land and property management system."³⁸⁷ These are circular arguments in that they do not account for the ways in which the law has been shaped. The government insists that its hands are tied – but who else can change the law?

After issuing repeated injunctions and arrest warrants for the protesters, Justice Marshall issued a lengthy ruling on August 8.³⁸⁸ It opens, "Ladies and gentlemen we speak of the Rule of Law. This case deals with an issue that is arguably the pre-eminent condition of freedom and peace in a democratic society. It is upheld wherever in the world there is liberty." He later continues, "The citizens of Caledonia may well ask why- why should I pay a fine which a judge has ordered when, on Douglas Creek Estates, the protesters do not have to obey the court's order? To that person, this court has no teeth. To that person, this is not a court at all." Still later, he declares:

³⁸⁵ Windle, "John Tory's 'friendly but firm' comments draw ire," 7.

³⁸⁶ Government of Canada, "Federal legal response to Haudenosaunee/Six Nations' Presentation of November 14, 2006," 13.

³⁸⁷ Knisley, "Provincial negotiator reports progress in land talks," 3.

³⁸⁸ Marshall, "Ontario Superior Court of Justice Court File No. 48/06."

it is common knowledge that the people of Caledonia, after 5 months of occupation, have seen security in their town replaced by lawlessness; protestors in battle fatigues, police officers in riot gear, and uncertainty of their future. Their property values reduced, racial relations with the neighbouring native people destroyed after many years of peaceful coexistence. It is a sad, sad result on both sides but one that might be avoided in future by proactive, quick settlement of land claims and, as well, by the crown and the police responding quickly to this court's reasoned orders.

Marshall called for a suspension of negotiations "until the barricades are removed from Douglas Creek Estates and the rule of law restored to that property."³⁸⁹ The judgment sparked an immediate reaction from protesters, who moved a downed hydro tower near to Highway 6 and threatened to pull it over the road should the provincial government heed the judge's order,³⁹⁰ declaring that "Marshall has no jurisdiction. This is a federal issue and he is an Ontario court judge."³⁹¹

The Ontario Court of Appeal later ruled the occupation legal since Ontario bought the property from the Hennings, who then attempted to drop their injunction. Marshall vowed to continue, arguing that "the dissolving of the injunction doesn't deal with the matter of contempt and the rule of law in Caledonia."³⁹² To Hazel Hill, however, Justice Marshall was "trying to hang onto some fictional power over this whole land reclamation when common sense should tell him that his part was over the day Henco was bought out, and when you really look at it, the OPP did enforce his injunction on April 20th." She also pointed out a possible conflict of interest, since Marshall lives on land falling within the Haldimand Tract: "Perhaps it is not the foundation of society that he is worried about, but something a little more personal."³⁹³ In response to these and other criticisms, Marshall contended, "The land I own was acquired through the legal system [...] it's the only legal system we have here."³⁹⁴

³⁸⁹ Ibid.

³⁹⁰ Dobrota and Mick, "Caledonia tensions heat up as judge orders end to talks: Ontario court orders natives off disputed land to restore 'the rule of law'," A1.

³⁹¹ Healey and McKay, "Natives disregard judge's decision; vow to 'maintain position' for now," A1.

³⁹² Pearson, "Arrest warrants to be addressed," 1.

³⁹³ Hill, "Update July 25, 2006," 1.

³⁹⁴ Legall, "Judge continues hearing; protester claims his land ownership constitutes conflict of interest," A4.

The Ontario Appeal Court definitively overturned Justice Marshall's orders in December 2006, pointing out that the Supreme Court of Canada has repeatedly recommended negotiation over litigation "to reconcile the claims of our aboriginal communities with the rights of the Crown" and that "many considerations are at play beyond the obligation to enforce the law,"³⁹⁵ including Aboriginal and treaty rights, constitutional rights, property rights, the right to protest, and the government's obligation to negotiate. The court concluded that "the immediate enforcement and prosecution of violations of the law may not always be the wise course of action or the course of action that best serves the public interest."³⁹⁶ The court also pointed out that Judge Marshall had placed the onus on the OPP to play judge and jury in deciding which demonstrators were in contempt of court, so that protesters were found guilty of criminal contempt merely by virtue of arrest, with no opportunity to contest their conviction."³⁹⁷ In response to the appeal court's final ruling, Mayor Trainer declared, "it's illegal. It shows two rules of law- you and I couldn't stay there illegally but they apparently can. That's what's irritating for everyone."³⁹⁸

Six Nations, however, repeated that it has its own Great Law of Peace. Jamieson had begun the occupation under the assumption that Canadian law does not apply to the protesters: "Ontario Provincial Police officers mean nothing to us. We are governed only by the Great Law. It is only out of respect that we allow them to be here."³⁹⁹ When presented with the first injunction, Dawn Smith asserted, "I am an ally to you, not a subject."⁴⁰⁰ The papers were burned in a campfire at the protest site.⁴⁰¹ Following contempt of court orders at the end of March, Jamieson repeated, "That's the Canadian court system, that's not us. That just has no bearing on why we are here."⁴⁰² She also called attention to Justice Marshall's hypocrisy; in his 2002 local history book, he had acknowledged that "[a]n organized system of law was in place among the Iroquois."⁴⁰³ Allen MacNaughton pointed out that although the imposition of the Band Council in 1924 implied that Six Nations must adhere to Canada's constitution, "we're not for that. We are

³⁹⁵ Laskin, "Court of Appeal for Ontario DOCKET C45859 and C45933," para. 136.

³⁹⁶ *Ibid.*, para. 117-118.

³⁹⁷ *Ibid.*, para. 122.

³⁹⁸ Puxley, "Caledonia judge overruled," A1.

³⁹⁹ Pearson, "Natives shut down home construction," 1.

⁴⁰⁰ Pearson, "Natives defy arrest warrant," 12.

⁴⁰¹ Pearson, "Natives staying the course," 1.

⁴⁰² Bonnell, "Police presence, court order fail to deter protesters," A4.

⁴⁰³ Pearson, "Natives rally for sovereignty," 9.

our own people. We have our own constitution.”⁴⁰⁴ Hazel Hill put it more bluntly in one of her newsletters: “JURISDICTION. What part of WE ARE NOT CANADIAN, is it they don’t understand. And how do you get it through their thick skulls that the laws of Canada do not apply. We are a Sovereign Nation. Hello, where have you people been for the last 8 months, or the last 2000 years for that matter!”⁴⁰⁵

Six Nations also asserted that Haudenosaunee law demanded that the land be protected. In response to urgings that the protesters abandon the site in the fall of 2007, Jamieson asked, “What gives people the right to tell us to leave? That’s our territory. That’s our land. As far as going home for the winter, we are home.”⁴⁰⁶ She pointed out that “under that Great Law, we have a duty, we are obligated to protect the land. We’re not obligated to uphold that provincial law, that injunction.”⁴⁰⁷ Hazel Hill recognized that Six Nations’ laws and beliefs, such as the Dish with One Spoon wampum which includes rights and responsibilities to protect the land, “gets us in conflict with [Canadian] law and there is a lack of understanding and respect there.”⁴⁰⁸ Allen MacNaughton echoed her sentiments in commenting on the negotiations:

I hear the government is optimistic. I don’t particularly share that optimism. Remember, we are sitting at that table only under agreements that were made with our forefathers and foremothers. That is the Two Row Wampum or Covenant Chain under the principles of peace, respect, and friendship. So when they talk about their policies needing to be followed, and only their policies, that doesn’t bode well for the future of these negotiations.⁴⁰⁹

Six Nations also alleges that Canada is and has been breaking its own ‘rule of law.’ The various claims lodged assert that over the past two hundred years, not only was much of the land purchased or leased from Six Nations not paid for, but much of it was outright stolen, and the funds that did accrue were fraudulently managed. Contraventions are repeated each time

⁴⁰⁴ Pearson, “Natives committed to land rights,” 9.

⁴⁰⁵ Hill, “Update from Grand River October 19, 2006,” 1.

⁴⁰⁶ David Marshall, *Dr. Marshall’s History of Haldimand County*, Trade Paperback: 2002, 17, as cited in Puxley, “Won’t stop Caledonia rally, says Ramsay,” A1

⁴⁰⁷ Muse, “2006: Janie Jamieson looks back on history,” 7.

⁴⁰⁸ Hill, “Update from Grand River November 16, 2006,” 1.

⁴⁰⁹ Windle, “Progress at the table slow but showing fruit,” 4.

Canada fails to consult and accommodate First Nations with land under claim. Information pamphlets circulated to raise awareness of Six Nations' land claims clearly spell this out:

Both the government as well as its constituents must acknowledge Six Nations' land rights and treaties. By not adhering to Six Nations' treaties, Canada is breaking its own laws. Canada is guilty of selling stolen property, breaking binding contracts, as well as not acting within its own constitution, which protects the rights of the Onkwehonweh (Original People of the Land).⁴¹⁰

On the reverse side of the pamphlet, the *Haida*, *Taku River*, and *Mikisew Cree* decisions of the Supreme Court are referenced:

In an area where a land claim exists ... the developers, government and financial institutions who are involved must all take part in CONSULTING AND ACCOMODATING the First Nation who launched the claim. The land claim DOES NOT HAVE TO BE PROVEN, JUST EXIST. Remember Supreme Court rulings are considered to be the 'LAW OF THE LAND'. Meaning, this is the law. Any PERSON, GOVERNMENT REPRESENTATIVE OR FINANCIAL INSTITUTION who does not consult or accommodate the First Nation involved is violating this ruling and is 'CONTEMPT OF COURT' and should be held accountable. Consultation and accommodation is not a common courtesy IT IS THE LAW.⁴¹¹

Another pamphlet is even more specific, detailing the steps that Six Nations took in efforts to have its land rights addressed – including requesting an accounting of lands and assets from the Crown, litigation, and exploratory talks - and Ontario's *Places to Grow* legislation, which "has chosen to ignore the Supreme Court ruling, in direct violation of Canadian law." The conclusion is that "the only Just and Right Thing to Do is to Place a moratorium on ALL DEVELOPMENT within the Haldimand Tract until fair and just compensation and resolution is achieved."⁴¹²

Each group viewed physical manifestations of the other's beliefs as aggression towards itself. To Canada, Six Nations' picket signs, flags, and protests constituted direct action against developers and the laws of Canada. To Six Nations, continued issuing of building permits signalled a denial of its own law and land rights, need for places to grow, and nationhood. According to Hazel Hill,

⁴¹⁰ Unknown author, "Honour Six Nations Land Claims: Do Not Buy or Sell Unsettled Land."

⁴¹¹ Ibid.

⁴¹² Haudenosaunee Men's Council of the Grand River, "Six Nations: How We Got Here."

We keep reminding the Crown that they have a responsibility to remind all of the municipalities who continue issuing development permits that this practice must stop. It's not ok for Ontario to develop lands that they know are in dispute. It's not ok to keep encouraging places to grow for millions of people when they know Six Nations have our own places to grow plan and our own green belt that needs to be considered. It's not ok for the municipalities and developers to think they can just talk to the elected system (because that is what they are being advised to do) and that the rest of us will just sit quietly and wait for an answer on Kanonhstaton.⁴¹³

Allen MacNaughton rephrased this stance several months later: "Canada and Ontario see the civil actions our people take against development on our lands as direct action that threatens the talks. However, they do not see that their developers are committing the same kind of action on our lands."⁴¹⁴ Newly elected Band Council Chief Bill Montour agreed that:

The only way we seem to get noticed by the provincial and the federal governments – by direct action. Even though they say they don't want to negotiate over barrels of guns and barricades and stuff like that, they ... keep on with development and it's just a farce ... If you're going to negotiate, let's negotiate honourably. And stop everything, and we get the thing settled and then we'll look at it.⁴¹⁵

Canada frequently mentioned its policy that third party property would not be expropriated to settle land claims. Six Nations felt the same way. Already in the first days of the protest, Clyde Powless was anxious to assure Caledonia residents that protesters "have no desire to evict anyone from their homes." Instead, he said, they felt that if they do not stand up for their rights now, they will have no land for the future: "This is our home, too."⁴¹⁶ MacNaughton agreed. "Nobody is going to get kicked off their land. When we get above the politics, we have to realize we are here together and we have to care for our land for the sake of our children."⁴¹⁷ By invoking this possibility, however, Canada increased local landowners' fears that Six Nations was out to kick them off their land. In a public meeting in October 2006, federal negotiator Ron Doering assured residents that the government "will not take away rights of third parties." Provincial negotiator Jane Stewart placed the onus to "return certainty to Caledonia" on the

⁴¹³ Hill, "Hazel's update of April 12, 2007," 1-2.

⁴¹⁴ MacNaughton, "Confederacy optimistic, but wants halt to development on crown lands within track," 7.

⁴¹⁵ Brown, "Montour vows new era of communication," A6.

⁴¹⁶ Burman, Nelson, and Van Hearten, "Native leaders urging supporters to stay away," A1.

⁴¹⁷ Zronik, "No one will be kicked off their land: chief," A4.

government's shoulders, implying that if things were left to the protesters, land would be expropriated as soon as possible.⁴¹⁸ Canada re-emphasized "its" policy in a Frequently Asked Questions web page addressing the Caledonia dispute: "It's important to underscore that if land is to be part of any settlement agreement, land would only be acquired on a willing-seller/willing-buyer basis. Canada does not expropriate private property in order to settle land claims."⁴¹⁹

All of this fear was doing no one any good. As Confederacy Chief Arnie General put it, the sooner "the citizens of Caledonia would start to realize that they are on native land [...] I think we would have, we would have a better understanding of each other's ways. I mean, we're not here to kick them out, I think that's the farthest thing from our minds."⁴²⁰ Differing concepts of what 'the law' demands, however, resulted in continuing conflict over development beyond Caledonia.⁴²¹

Already in the early days of the Caledonia protest, General acknowledged that although protesters might not be able to stop the Douglas Creek Estates development, "I'm not saying there aren't other developments we can stop." Six Nations land was being stolen "all up and down the Grand River [...]" and the government will not sit down and talk with us."⁴²²

Neighbouring municipalities and towns, especially nearby Brantford, were immediately aware of the implications of Six Nations' protest at Kanohstaton. Discussing an upcoming city planning meeting in June 2006, Brantford city councillor Marguerite Ceschi-Smith pointed out that:

If the focus is on land, notification and development, I don't know why we wouldn't invite our neighbours at Six Nations. The Confederacy and the elected council should be at the table. If I was them I'd be upset. We're all members of the Grand River family. We all share the same space. We need to hear all the perspectives.⁴²³

⁴¹⁸ Dring, "DCE agreement with native occupiers "a long way off", 5.

⁴¹⁹ Indian and Northern Affairs Canada, "Frequently asked questions - Canada's offer to Six Nations Welland Canal flooding claim," 2.

⁴²⁰ Martin-Hill, *Sewatokwa'tshera't: The Dish with One Spoon*.

⁴²¹ Although a detailed examination of these events is unfortunately outside the scope of this thesis, the conflict which began in Caledonia has indeed spread to other places, most notably the city of Brantford, where at the time of this writing in May 2009, conflicts over development continue to intensify within and outside of the courts.

⁴²² Morse, "Court orders protesters out: Natives must leave by Thursday," A3.

⁴²³ Marion, "City rejects playing host to meeting, lack of native representation cited as concern," A1.

Councillors were also aware of the consequences of the *Places to Grow* legislation and the growth challenges it would pose.⁴²⁴ Some kilometres upriver, the city of Kitchener's chief administrative officer recommended stopping work on environmental assessments for projects until consultation and accommodation with First Nations communities had occurred. Lorne Boyko, visiting from Haldimand County Council, however, advised that there was no need to stop development. "This would close the door on a lot of projects. Where does it end? Where does it stop?" The proposal was turned down by a show of hands.⁴²⁵ In Haldimand, too, there was concern about potential for further disputes with Six Nations. At a County meeting in late July 2006, Boyko, discussing a letter from the Six Nations Band Council regarding possible rezoning of land for another development in Caledonia, asked, "I'm a little concerned about just ignoring it. Are we setting the developer up to get into a Douglas Creek type situation?" Councillor Buck Sloat clarified that although the County Council would back the developers, recent months had shown that the County must have a paper trail for every decision. Boyko agreed, saying that "all we're trying to do is protect the interests and residents of the county."⁴²⁶

Boyko's question as to "where will it end?" might well have been asked by Six Nations, since they were wondering when, if ever, development on disputed lands would cease: in Caledonia, Kitchener, and Brantford, at least, it appeared that concern was not strong enough to warrant actually changing 'the law.' Though councillors' concern at times appears genuine, it became clear that Six Nations' needs were to be considered only if convenient and in hopes of easy answers. Echoing sentiments expressed in Caledonia, Brantford Mayor Mike Hancock called Six Nations "neighbours" and "friends," citing "many common interests and priorities such as tourism and economic development" and hoping to see "land claims and treaty issues dealt with and resolved to provide certainty in our relationship."⁴²⁷ The bottom line, however, was that efforts to 'consult and accommodate' had better not actually stop projects from going ahead.

The non-binding Grand River Notification Agreement put in place in 1996, which asked that parties in the "Notification Area" inform each other of projects, had proved inadequate. Ten

⁴²⁴ Zronik, "Brant expansion influenced by others," A12.

⁴²⁵ Canadian Press, "GRCA projects moving forward without Six Nations consultation," A4.

⁴²⁶ Knisley, "Developers cautious," 9.

⁴²⁷ Windle, "Mayor Hancock set to protect relationship with Six Nations/New Credit," 1.

years later, Arnie General was still addressing Brant County council on the issue: “I’m very concerned with what is happening with the Grand River notification agreement not being upheld. According to historical treaties, that land belongs to Six Nations.”⁴²⁸ In January 2007, Leroy Hill explained that increasingly common protest signs in Brantford were not “initiated or authorized by the Haudenosaunee-Six Nations Council of Chiefs, but [are] an example of the frustration level of Six Nations people. The fact of the matter remains that most of Brantford is Six Nations’ Land (except for the 50 acres that has been paid for).”⁴²⁹

Meetings of the Brant Riding Intergovernmental Committee, which included Mayor Hancock, Brant MPP Levac, County Mayor Ron Eddy, MP Lloyd St. Amand, and Six Nations elected chief Dave General, attempted to address consultation protocols. However, expansions of Brantford’s borders in accordance with *Places to Grow* were approved,⁴³⁰ with Brantford contending that land ownership and claims issues with provincial and federal governments are separate from municipal boundary issues.⁴³¹ Attempts to focus on economic and development unity between Brantford and Six Nations⁴³² appeared encouraging. However, underlying assumptions were unchanged: a foundation of continuing development; prioritization of the economy; willingness to work within *Places to Grow*; and inclusion of Six Nations as a stakeholder, but no more.

Six Nations’ response to Brantford’s presentation explaining the need for more land to accommodate densification and population increases mandated by *Places to Grow* was largely incredulous. As one woman put it, “You’ve talked about more expansion and growth in Brantford, but what about growth at Six Nations? Where are we going to put our people? People who want a house on the reserve can’t get one. What about what we need?”⁴³³ As Arnie General put it, “You are in violation of constitutional law. We are the ones upholding the law [...] They call it Places to Grow? Well, I call it Places to Destroy.”⁴³⁴

⁴²⁸ Zronik, “Six Nations not being notified of development in Brant County, complains Confederacy chief,” A3.

⁴²⁹ Hill, “Canada owes us millions,” A10.

⁴³⁰ Brant Riding Intergovernmental Committee, “Meeting minutes,” 1-2.

⁴³¹ Brant Riding Intergovernmental Committee, “Meeting minutes,” 1-2.

⁴³² *Ibid.*, 2.

⁴³³ Ball, “Confederacy objects to city’s land deal,” A1.

⁴³⁴ Windle, “Developers disappointed at Onondaga Longhouse,” 2.

When protesters stopped work at a development site in Hagersville, a small town south of Caledonia, in spring 2007, Clyde Powless pointed out that “we’re not against development, but we should be consulted, especially when we say we’re negotiating on the very lands that are being developed. That’s a slap right in the face.” The developer, Dan Valentini, sounded oddly like Henco had a year earlier. “I can’t blame the natives because if they have a claim, clearly something exists. They’ve been trying to reach out to the government to settle this and it hasn’t been settled. I’m caught in the middle. But I think as Canadians, we’re all caught in the middle.” Dawn Smith was coy when asked whether the protesters’ actions were sanctioned by the Band or Confederacy Council. “They didn’t tell us not to,” she replied.⁴³⁵ Citing “lawlessness” and “unacceptable behaviour” which “will not be tolerated,” Ramsay called a temporary halt to negotiations.⁴³⁶ Trainer took the protest as a sign that Six Nations planned to cause a ruckus across Canada, claiming that “all of Canada is on their radar screen”⁴³⁷ and calling Caledonia a “pilot project for Natives to see what they can get in occupations across the country.”⁴³⁸

Demonstrations also began in Brantford. In August 2007, a group of about ten Six Nations protesters stood with placards and banners at a busy corner, while city trucks hauled fill material from the area. “It’s contempt of court to develop on land where a claim exists,” Jamieson explained again. Holding signs like “Break a Treaty, Break a Law” and “We are Not Terrorists,” the protesters repeated their worn refrain.

The government is not telling people that they're involved in land that's under claim. They're trying to hoodwink their own people. We tried to tell them in Haldimand-Norfolk but they didn't listen and it's developing into the same situation here. Brant County is known for its farmland and the government is set to destroy it. Once that land is gone, there's no getting it back.⁴³⁹

⁴³⁵ Dring, “Natives stall another housing project,” 1.

⁴³⁶ Wallace, “Documents obtained by Osprey News puts price tag on settling Caledonia dispute: Ottawa to offer \$125 million,” A1.

⁴³⁷ Dring, “Natives stall another housing project,” 1.

⁴³⁸ Windle, “Trainer wants to meet with PM Harper on land claims resolution,” 2.

⁴³⁹ Gamble, “City breaking the law: protesters,” A3.

Despite repeated letters to local councils explaining how Six Nations' land rights had been ignored⁴⁴⁰ and meetings with developers to explain issues of disputed land,⁴⁴¹ development continued in the Haldimand Tract. The Canadian government's refusal to adhere to the law regarding disputed lands placed developers in direct conflict with frustrated Six Nations protesters,⁴⁴² resulting in a violent altercation at another development site in Caledonia. The builder injured cited the incident as evidence that Native children "are growing up hating us."⁴⁴³ Hazel Hill, on the other hand, saw the situation as one in which Canadian policies create divisions within Six Nations as to the most appropriate way to address continuing encroachment.⁴⁴⁴

The expansion of protests to locations other than Douglas Creek Estates is the unmistakable result of fundamentally clashing viewpoints as to what 'rule of law' calls for. Ontario property law and the *Places to Grow* legislation are at odds with Haudenosaunee law and convictions as well as Supreme Court decisions. Six Nations' 'rule of law' discourse highlights several concepts: firstly, the continuing violation by Canadians of their own law; secondly, a call for justice and the "right thing," and thirdly, the direct conflict of the *Places to Grow* Act with the need to resolve Six Nations land claims according to Canadian law. These ideas are often explicated more simply in signs explicating messages such as, "You Cry Rule of Law so Honour our Treaties and Leases!!"⁴⁴⁵ The issue of law is also deeply connected to the perception that the Canadian government is trying to permanently subjugate Six Nations' culture and nation. As one protester put it, "They want us to go away, but we won't. We can't. To us, it's black and white. We're not going to win in the white man's courts, because it's the white man's law."⁴⁴⁶ Janie Jamieson believes that the criminal justice system exists only to protect property owners: "They're the ones who will be making money, not just for themselves, but for the municipalities and ultimately for the province and the federal government."⁴⁴⁷

⁴⁴⁰ Bomberly, "Letter to Brantford Mayor Mike Hancock," 1-3.

⁴⁴¹ Pearson, "Six Nations protesters hold information picket," 1.

⁴⁴² Many of these protesters acted without approval of either the Band or Confederacy Councils.

⁴⁴³ Dawson, "'Remember Us' march leads to one arrest," 3.

⁴⁴⁴ Hill, "Update from Grand River," 3-4.

⁴⁴⁵ Pearson, "Contempt charges unclear," 1.

⁴⁴⁶ Hemsworth, "'Everybody's watching'; Six Nations residents blame all levels of government for not stepping forward and resolving land claims," A8.

⁴⁴⁷ Muse, "Judge playing dangerous game, says Janie Jamieson," 2.

Canada's account, meanwhile, both discursively and physically locates Six Nations and the Douglas Creek Estates occupation outside of 'the' (Canadian) law, again in furtherance of Canadian national space-making projects. This dispute over unsurrendered land is also a dispute over the legitimacy of Haudenosaunee law, which in turn rests on questions about (un)surrendered sovereignty. By locating Six Nations in a lawless space, Canada's continuing colonization project obstructs genuine dialogue by denying the nation-to-nation recognition that they demand at the negotiating table. Again, material, space-shaping consequences of this clash are *everywhere*: handcuffs on defiant protesters, zoning changes from Brant County to Brantford city land, and ever-expanding suburbia. 'Rule of law,' indeed.

The righting of wrongs

Resolution for the dispute was sought through negotiations which began in earnest about six weeks after the start of the occupation, two weeks after the OPP raid. Federal, provincial, and Six Nations governments signed a negotiating framework committing them to dialogue according to honourable relationships between the Haudenosaunee and the Crown.⁴⁴⁸ However, it was soon clear that discussions could not possibly be limited to the question of Kanonhstato's 'ownership': Canada and Six Nations have fundamentally differing ideas about what a just resolution of this dispute might look like, and perhaps more importantly, how it might be reached. Canadian conceptions of justice, epistemologies, and ontologies were presented as more rational and legitimate than those of Six Nations, placing the Haudenosaunee once again in a discursive space which reduced fundamentally different ways of being to 'cultural concerns,' which are to be tolerated with polite detachment rather than fully engaged, and were often viewed as impediments to a negotiations process which, to Canada, should be focused solely on documented 'evidence' which constitutes 'facts.' Six Nations argues not only that records kept by the Crown are not necessarily complete and accurate, but that the relationships and historical contexts which surrounded events must also be taken into account. To them, moral and just resolution must directly address injustices: thus, settlement should consist primarily of the return of land, not monetary compensation. Racialized naturalizations of justice are perhaps most

⁴⁴⁸ MacNaughton, McDougall, and Stewart, "Negotiation framework."

evident, however, in the different ways that the Canadian government treated the parties directly involved: Caledonia, Henco, and Six Nations.

Already in the early days, attitudes to negotiations differed. The Confederacy supported the reclamation and the negotiating process because, as Leroy Hill put it, “there is prosperity all around us [...] yet we are running out of land for ourselves.” The protesters “have endured many hardships. We, the chiefs, support this. We believe the federal government has the power to end this dispute today.”⁴⁴⁹ While Six Nations viewed the reclamation as a necessary protest after years of frustration, Ramsay asserted that “it’s just unfortunate that a small group of people got impatient”⁴⁵⁰ claiming that exploratory talks had been progressing under McGuinty’s Liberal government. The federal government likewise claimed that “progress” was being made with the elected council on some of Six Nations’ more straightforward claims.⁴⁵¹ David Peterson, arranged as a kind of peacemaker to help relieve increasing tensions in Caledonia, explained that:

I can’t guarantee timelines, can’t guarantee success, (and) can’t guarantee what the resolution will be. But we’ll muck around and hopefully we can find something [...] Everyone feels aggrieved, everyone feels their side is the victim and being taken advantage of. The genius here is to find common ground [...] The reality is, this has been going on for 200 years, so we have to find something that everybody wins with, and I can’t guarantee anything.⁴⁵²

Peterson sounds well-intentioned, and his acknowledgement of the longstanding grievances is crucial, but he fails to recognize that justice may call for something other than a win-win-win situation. Negotiations are intended to learn, discuss, and work together to address problems with a give-and-take approach, so it should be obvious that outcomes are not pre-determined. “No guarantees” is a reminder that the status quo of unaddressed claims favours Canada, not the Six Nations, and though the government now chose to enter negotiations, they could choose otherwise - as they had, on April 20. Demands for “a solution that reflects the interests of the

⁴⁴⁹ Marion, “Confederacy chiefs call for talks on land claims: Throw support behind Caledonia housing development occupation,” A1.

⁴⁵⁰ Gamble, “Ontario still wants to see negotiated settlement: minister,” C2.

⁴⁵¹ Indian and Northern Affairs Canada, “Michael Coyle appointed to undertake a fact-finding initiative in relation to the situation in Caledonia.”

⁴⁵² Canadian Press, “Peterson to help solve land dispute: Former premier says he can't guarantee he'll have success,” A1.

community of Caledonia, Six Nations, and the affected developer and builders”⁴⁵³ placed the three stakeholders on an even playing field, with their interests to be considered equally.

Jane Stewart was appointed official representative for Ontario and Barbara McDougall for the federal government, with Ron Doering assisting.⁴⁵⁴ McDougall was mandated with developing a work plan “to address and resolve outstanding issues related to land claims and governance.”⁴⁵⁵ According to Minister Ramsay, “this is more of an accounting of the land. Were they properly credited for the land as it was disposed of?”⁴⁵⁶ Constructing the negotiations as a question of accounting ignores the possibility that Six Nations might not have surrendered the land, in accordance with Canadian national narratives and official geographies. INAC’s early appointment of a “fact-finder” speaks volumes about its approach to the dispute. Both federal and local officials emphasize the need for authoritative ‘evidence.’ “We have to come to grips on the history part – what the claims are. Records are pretty spotty when you go back that far.”⁴⁵⁷

Confederacy Council negotiators expressed hopeful (or diplomatic) feelings that “there are some apparent concessions here. Governments are taking some accountability and are coming to the table in good faith [...] We are going to keep up diplomacy, in adherence to the Great Law.”⁴⁵⁸ According to Six Nations academic and historian Rick Hill, however, “it could be solved quickly if you looked at it creatively. But it’s hard to have faith in a process when the people who say ‘Trust us’ are the ones who have deceived us over the years.”⁴⁵⁹ Hazel Hill indicated cynicism towards the government’s processes, emphasizing the necessity of forcing Canada to the table:

Hopefully, it will be the last time our people have to go through anything like this. The message to Canada is that it must now deal with the issue of our land and the trust that they have never been accountable for, it must honour our treaties, accept responsibility for its own abuses against our people, deal with the theft of our land and resources, and

⁴⁵³ Ramsay, “Letter to Six Nations “Iroquois” Confederacy.”

⁴⁵⁴ Doering was to later assume the lead negotiating role when McDougall stepped down.

⁴⁵⁵ Indian and Northern Affairs Canada, “Barbara McDougall appointed as federal representative in Caledonia talks.”

⁴⁵⁶ McKay, “Land negotiators join talks,” A8.

⁴⁵⁷ Zronik, “Levac takes shot at Tory rival,” A4.

⁴⁵⁸ Pearson, “Talks fail to end protest; Henco Industries considering legal action against OPP,” 7.

⁴⁵⁹ Gamble, “Whose land is it, anyway?,” A1.

begin righting the wrongs in an acceptable time frame. The lands claim process designed by the government through the department of Indian affairs is a scam. The whole process is designed not to protect our interest in the land, but to continue to sell land that they deem “surplus crown land” (meaning any land that belongs to our people that they want or can use/sell) and no where in that process is it ever intended to return land, they only want to get out the cheque book and usually that is AFTER development. This is no longer acceptable and must be stopped!⁴⁶⁰

Indeed, McGuinty conflated progress in early negotiations with the “obvious progress” of visible barricade removal.⁴⁶¹ The Ontario government confirmed in mid-May “the imposition of an immediate moratorium halting any development on the Douglas Creek lands for a period of time to be agreed upon by the representatives of the Confederacy, Canada and Ontario.” But the letter came with a warning: “In order for talks on Douglas Creek Estates and the long-term land grievance to proceed, we must see continued progress on removal of the barricades on the transportation corridors.”⁴⁶² A joint statement from Prentice and Ramsay announced,

There has been a commitment throughout that these talks will accelerate further as peace returns to the community [...] We are asking that these blockades be removed as a matter of urgency in order that the source of tensions in the communities be eliminated. This will mean that all involved can focus their resources and efforts to the task of resolving the outstanding issues at the table.⁴⁶³

This statement blamed the “tensions” in the community on the Six Nations-erected blockades rather than on the unresolved land claims which led to the protest and implied that the government’s full attention would not be directed towards the table until Caledonia was safeguarded. In the first months of the negotiations, the slow pace of “progress” was regularly lamented. Toby Barrett complained that “this snail’s pace fails to reflect the urgency felt by all sides” and called for “a Premier who will act like a true CEO- one that will get the job done, rather than procrastinating for months.”⁴⁶⁴ His complaints about the slow pace did nothing to acknowledge the decades that Six Nations has been waiting for its claims to be addressed. By

⁴⁶⁰ Hill, “Update from Grand River,” 2.

⁴⁶¹ Pacienza, “Premier to Caledonia residents: Be patient: Asks for more time to resolve dispute,” A1.

⁴⁶² Ramsay, “Letter from David Ramsay to Haudenosaunee Six Nations Confederacy Council.”

⁴⁶³ Indian and Northern Affairs Canada and Ontario Ministry of Aboriginal Affairs, “Joint statement by Minister Jim Prentice and Minister David Ramsay,” 1-2.

⁴⁶⁴ Barrett, “What’s on negotiating table?,” 14.

October, Doering sounded threatening: “The alternative to reconciliation is to use some type of force. For my part, I’d rather negotiate than use some type of force.”⁴⁶⁵ The issue of the ownership of Douglas Creek Estates had been relegated in July to one of four “side tables” reporting to the main negotiating table, along with a Public Education and Awareness table, a Consultation issues table, and an Archaeology and Appearance table.⁴⁶⁶ But beginning in autumn 2006, parties began to trade narratives on the history of Kanonhstaton, accounts deeply revelatory of differing approaches to “facts” and “history” and to land and land ownership.

In the summary of Six Nations’ twenty-eight outstanding land claims published by its Lands and Resources Department, the ‘Hamilton-Port Dover Plank Road Claim’ encompassing Kanonhstaton alleges that Six Nations intended only to lease the lands, and that it was deprived of rent, mineral royalties,⁴⁶⁷ and compensation for the lands used to construct the Hamilton-Port Dover Plank Road and the lots on either side of the road. The Crown defence asserts that “Six Nations submitted these lands for sale in 1841 and affirmed its decision to sell in 1843 and 1844.”⁴⁶⁸ However, that alleged surrender is the subject of another claim, the ‘1841 Purported General Surrender Claim.’⁴⁶⁹ Six Nations’ allegations here are more detailed, listing documents noting:

- official recognition of a squatter problem;
- the Upper Canadian government’s attempts to convince Six Nations to sell certain parcels of its lands rather than lease them;
- Lieutenant Governor Samuel Jarvis’s conclusion that a small deputation of Six Nations people had agreed to his proposal to sell all remaining lands in 1841; and
- immediate petitions following the purported surrender which asserted that Jarvis had intimidated the group to sign the documents, that proper and usual procedures for surrender had not been followed, and that in any case, they were not chiefs.

⁴⁶⁵ Nolan, “Six Nations evidence due,” A15.

⁴⁶⁶ Ontario Ministry of Aboriginal Affairs, “Haudenosaunee/Six Nations-Canada-Ontario main negotiation table update.”

⁴⁶⁷ The mineral resources are extensive, especially gypsum.

⁴⁶⁸ Six Nations Lands and Resources, “Six Nations of the Grand River: Land Rights, Financial Justice, Creative Solutions,” 14. The Plank Road claim was filed on June 23, 1987 and is registered under File Number B-8260-322.

⁴⁶⁹ Ibid., 19. The 1841 Purported General Surrender claim was filed on September 28, 1989 and is registered under File Number B-8260-381.

The claim narrative also points out that Jarvis was dismissed just a few years later as Chief Superintendant of Indian Affairs for embezzlement of Indian funds, and contends that the 1841 surrender is not valid since clear surrender documentation and maps are lacking.⁴⁷⁰ To Six Nations, justice must take into account the context surrounding the purported 1841 surrender - such as repeated affirmations of Six Nations' desire to lease rather than sell land, its cultural valuing of land and the inherent contradictions in the idea of selling it, and the underhanded tactics of a dishonest government official. This narrative is replicated in other documents, including an account of the Plank Road claim published on the Six Nations website.⁴⁷¹ The Crown, however, focuses on 'facts' backed up by documents which, though not official documents of surrender, appear to make clear Six Nations' knowledge of the terms of the land surrender.

In September 2006, federal negotiator Ron Doering conceded in writing that federal negotiators do not possess a specific Order in Council or maps concerning these decisions, nor evidence of money entering Six Nations' trust accounts,⁴⁷² but called in turn for Six Nations representatives to produce evidence that the lands were *not* surrendered. "If they don't convince us we're wrong, the federal government will stand by its position."⁴⁷³ The Crown also presented the Department of Justice's (DOJ) official *Position on the History of the Surrender of the Plank Road Lands (including the Douglas Creek Estates)* at a meeting on November 3, 2006.⁴⁷⁴ Ignoring the long pre-war relationship between the Crown and the Haudenosaunee, the document emphasizes the Simcoe Patent's restriction on Six Nations' power to alienate land unilaterally and invitations to certain white settlers to take up land, as well as the Crown's efforts to prevent land sales and leases and official Acts against squatters.⁴⁷⁵ In 1840, Samuel Jarvis recommended "a compact and homogenous reserve, with the rest of the land sold, and the proceeds deposited in the Six Nations' trust account."⁴⁷⁶ This proposal was accordingly made to the Confederacy in January 1841, and "on the 18th of January, two weeks after Jarvis' initial proposal for a comprehensive

⁴⁷⁰ Ibid., 21.

⁴⁷¹ Six Nations Band Council, "Backgrounder: The Six Nations Plank Road Claim in Brief."

⁴⁷² Doering, "Re: Plank Road Side Table."

⁴⁷³ Nolan, "Six Nations evidence due," A15.

⁴⁷⁴ Department of Justice Canada, "Canada's position on the history of the surrender of the Plank Road Lands (including the Douglas Creek Estates): Summary of the Narrative presented by Michael McCulloch to the Plank Road Lands Side Table."

⁴⁷⁵ Ibid., 2.

⁴⁷⁶ Ibid., 4.

surrender, the [Confederacy] Council assented to the proposal.”⁴⁷⁷ Subsequent inquiries concluded that the surrender was valid, and boundaries for the new reserve were eventually confirmed by the Chiefs on December 24, 1844. The decisions were recorded by David Thorburn, a Commissioner appointed to settle the final reserve; the Crown also cites an 1846 petition related to the reserve’s western boundary as evidence that the Chiefs “understood and agreed to the surrender of the Plank Road Lands, including what is now the Douglas Creek Estates.”⁴⁷⁸ By foregrounding the sales and leases of Six Nations’ land undertaken mainly by Joseph Brant, holding Six Nations partly responsible for the squatter problem, and detailing the difficulties of the Six Nations chiefs in determining the boundaries of the reserve, the narrative presents Six Nations as cognizant of its decisions but incoherent in its governing practices.

In response to the DOJ’s report, Six Nations presented its account of the events surrounding the purported general surrender of lands. Hazel Hill recalled it as:

an excellent day and opportunity to not only put our position on the table, but also to put OUR records and documentation of history on the table, our Wampum. Chief Pete Sky and Sub-Chief Leroy Hill spent the morning giving an oral presentation explaining the history of our people from the time the Creator gave us our Law, the process to uphold it, to the coming of the Europeans, right to present day, using several of our original wampum which they had brought in, to explain that history and relationship with the Crown.⁴⁷⁹

Moving from discussions of Six Nations governance and the Dish with One Spoon concept,⁴⁸⁰ negotiators explained their understanding of the Plank Road agreement, according to which the lands were “to be leased only to ploughs depth.” Historians pointed out that “records that were stolen along with our mace in 1924 [during the RCMP takeover of the council house] were never returned,” and that since most documents were drafted in English, they may not have accurately represented Six Nation’s understanding of agreements. Further, their understanding of ‘surrender’ was not that the land was given up, but rather authorized “the Crown’s peacekeepers

⁴⁷⁷ Ibid., 5.

⁴⁷⁸ Ibid., 12.

⁴⁷⁹ Hill, “Update from Grand River November 16, 2006,” 1.

⁴⁸⁰ As explained in Chapter 1, the Dish with One Spoon refers to a practice of sharing lands and resources so that there is enough for everyone, including future generations.

to look after the squatters [...] It was never said we'd given up our land. It is forbidden for Chiefs to think that way, we have to help our people preserve for the future."⁴⁸¹ Leroy Hill indicated that "for every conclusion they have, we can find published documentation to the contrary." For instance, Six Nations cites as evidence notices of eviction given to settlers along Plank Road who lacked the Confederacy Council's permission to settle there. Moreover, as Professor Rick Hill explained, "[j]ust because it is written doesn't make it true." He argued that written records are incomplete if they do not take into account oral records, and suggested that legal trickery had occurred. As the federal government later described Hill's presentation, "The central challenge he posited was for the parties to acknowledge their differing interpretations of the historical *facts* and to find creative ways to accommodate those differences."⁴⁸² This is crucial: to the Crown, a document stands as fact. To Six Nations, it is a piece of paper according to one perspective.

The battle over truth continued. Phil Monture, the principal land claims researcher representing Six Nations at the negotiations, tabled a response document⁴⁸³ which asserted that procedures established by the Crown regarding the alienation of Indian Territory were not followed in the case of the Plank Road Lands, describing the Crown's obligation to protect Six Nations from squatters and citing an 1843 statement from the Executive Council of Upper Canada "assur[ing] the Six Nations that the Government had no wish to take any portion of their lands against their free wishes." Monture concluded that there is no legal surrender document for the Plank Road lands; that the Crown deliberately induced the sale of Six Nations lands against their constant protests; that these failures constituted breaches of the Crown's fiduciary duties to protect Six Nations lands against trespass; and that Six Nations did not authorize the building of the Plank Road and was never compensated for its construction.⁴⁸⁴ Monture pointed out that nineteen years had passed before Canada responded to the Plank Road claim, "and only then as a result of the February 2006 Douglas Creek Land Reclamation."⁴⁸⁵ The document clearly argues that the

⁴⁸¹ Ibid., 3.

⁴⁸² Government of Canada, "Federal legal response to Haudenosaunee/Six Nations' Presentation of November 14, 2006.", italics mine.

⁴⁸³ Monture, "Hamilton/Port Dover Plank Road Update."

⁴⁸⁴ Ibid., 4.

⁴⁸⁵ Ibid., 5.

circumstances surrounding the purported 1841 surrender of land were just as essential as the documentation, or lack thereof, regarding the alleged surrender.

The trading of accounts continued with the *Federal Legal Response to Haudenosaunee/ Six Nations' Presentation of November 14, 2006*, tabled January 25, 2007⁴⁸⁶ and explaining that:

Although the presentations dealt with a broad range of matters, this paper offers only the legal views of the Government as to how the issue of the surrender of the Plank Road Lands would most likely be addressed in a Canadian Court of Law ... the paper does not presume to speak to how the various events between 1841 and 1844 might be interpreted under the *Great Law of Peace*, as we have no expertise in matters other than Canadian law.⁴⁸⁷

While the elders' presentations were "instructive" as to Six Nations' views on the nature of their special relationships to the Crown and to the land, Canada's legal response relies "on the written evidence which we believe indicates strongly that the Six nations leaders intended to surrender the Plank Road Lands for sale," based on a sequence of events and documents taken together, rather than one "surrender document,"⁴⁸⁸ and that it believes the Crown would be found by the courts to have satisfied its fiduciary and other duties.⁴⁸⁹

Both sides conceded that a stalemate had occurred over rights to Kanonhstaton and what kinds of 'facts,' 'evidence,' history, and context must be taken into account to reach a conclusion reflecting justice, but negotiations continued regarding other claims. According to Hazel Hill,

The Crown is still insisting that they have a valid surrender. We know it wasn't. They were reminded by our delegates that it was Canada that was making a "claim" to our lands, and that if they wanted to offer proof of their claim, Canada could go ahead and gather up that proof and evidence [...] The Crown believes their position as stated by their department of justice hasn't changed. We know ours hasn't changed. We also know that

⁴⁸⁶ Government of Canada, "Federal legal response to Haudenosaunee/Six Nations' Presentation of November 14, 2006."

⁴⁸⁷ Ibid., 1.

⁴⁸⁸ Ibid., 6.

⁴⁸⁹ Department of Justice Canada, "Canada's position on the history of the surrender of the Plank Road Lands (including the Douglas Creek Estates): Summary of the Narrative presented by Michael McCulloch to the Plank Road Lands Side Table," 12.

we are not sitting at the table according to 'Canadian law' so their department of justice opinion means nothing.⁴⁹⁰

Differing ideas about justice also evidence in debates over reparations. Canada's approach appeared to depend on who was demanding justice: in the case of the developers and Caledonians who experienced difficulties as a result of the occupation, monetary damages were awarded in short order. At issue, too, are differences as to what constitutes fair compensation: Canada focuses on financial payments, while Six Nations calls for the return of land. Discussions of the monetary costs of the reclamation occupied prominent places in public conversations about this dispute. Beginning in the early days of the occupation, local leaders had been complaining about the utility costs incurred at Kanonhstaton, the costs of purchasing Douglas Creek Estates, and Ontario's expensive contestation of Justice Marshall's injunctions at the Court of Appeal which allowed the protest to continue.⁴⁹¹ Premier McGuinty used money as grist for his mill in calling on Ottawa. "I want to put the feds on notice. We've been caught up in this for a long time. More importantly, the people of Caledonia have been caught up in this for a long time. Now it's costing Ontario taxpayers all kinds of money."⁴⁹² In a similarly worded press release, David Ramsay grumbled, "Ontario families – particularly those in the Caledonia area – find themselves caught in a dispute between the federal government and Six Nations. Ontario taxpayers have paid, and continue to pay, a hefty price for the ongoing occupation in Caledonia."⁴⁹³ Secondary to the costs of the reclamation was the demand that Ottawa correct its slow pace of addressing land claims. In February 2007, "Six Nations (Caledonia) Negotiations Costs to Date"⁴⁹⁴ were listed at \$46.26 million. Of this, approximately \$20 million had gone to buy Kanonhstaton from Henco, \$2 million to business assistance, and policing costs were at \$21.6 million. While the title placed blame for the occupation entirely at Six Nations' door, lumping policing costs together also masked reasons for the police presence. How much money had the failed OPP raid and its aftermath cost? What about extra security needed for McHale's rallies?

⁴⁹⁰ Hill, "Hazel's update of April 12, 2007," 1.

⁴⁹¹ Barrett, "One law for all - period," 10; Pearson, "A state of emergency declared after town left in the dark," 3.

⁴⁹² Puxley, "McGuinty wants Ottawa to pay up," A3.

⁴⁹³ Ontario Ministry of Aboriginal Affairs, "Statement from Minister Ramsay- Minister responsible for Aboriginal affairs."

⁴⁹⁴ Ontario Ministry of Aboriginal Affairs, "Six Nations (Caledonia) costs to date."

Hazel Hill re-contextualized demands for money by referring to Six Nations' own grievances, calling for utility bills to be sent to "#1 Reclamation Drive" or "better yet, send them to the Queen, she's holding all of our trust monies."⁴⁹⁵ And to Leroy Hill, complaints about taxpayers' dollars were salt in a wound:

As for [...] taxpayer's dollars being transferred to Six Nations, we would rather have our own dollars returned where it was stolen from and a sincere apology from the Prime Minister or Governor General. For Canada, I suggest a New Year's resolution: 'In 2007 I pledge to stop denying Six Nations their rightful place in the world and to seriously address our national debt to them.'⁴⁹⁶

The government's characterization of the dispute as an economic burden to Caledonia's economy served to divert attention from the root causes of the protest and implicitly blamed protesters for problems: "We certainly know that the developer and the contractors that are there to build that subdivision have been financially hurt. We want to work with them and find out what that financial pain is and see if there's anything we can do to help them through this."⁴⁹⁷ "Progress" in the discussions was often related to funding assistance for Henco and Caledonia businesses "related to the Douglas Creek Estates," not towards negotiations.⁴⁹⁸ Haldimand County press releases were chiefly devoted to monetary assistance to "affected businesses"⁴⁹⁹ and for the builders,⁵⁰⁰ with \$500,000 in funding assistance to "local businesses which are at risk of closure due to the Douglas Creek Estates blockades" announced in May⁵⁰¹ and disbursed from the Local Business Emergency Relief Office starting just days later.⁵⁰² The attention immediately showered on Caledonia did not go unnoticed. Janie Jamieson believed Justice Marshall's injunctions were intended to protect business interests, unconcerned about the lives risked by attempted enforcement on April 20: "their main focus, the agreements that have been made, have been

⁴⁹⁵ Hill, "Update from Grand River October 19, 2006," 2.

⁴⁹⁶ Hill, "Canada owes us millions," A10.

⁴⁹⁷ Livingston, "Ontario considers financial help in native occupation," A5.

⁴⁹⁸ Ontario Ministry of Aboriginal Affairs, "Progress being made on Caledonia situation."

⁴⁹⁹ The Corporation of Haldimand County, "Province commits to communications and business assistance."

⁵⁰⁰ The Corporation of Haldimand County, "Haldimand County Council passes two motions regarding Douglas Creek Estates issue."

⁵⁰¹ The Corporation of Haldimand County, "Province provides local businesses with emergency financial relief program."

⁵⁰² The Corporation of Haldimand County, "Haldimand County opens local business emergency relief assistance office."

with the businesses of Caledonia that have received money. It's been with Henco Industries – they've received money. And it's all about really making sure that the corporation does not suffer [...] it doesn't matter that lives may be at stake because of it.⁵⁰³

When Ontario bought Douglas Creek Estates from Henco in June 2006, the press announcement did not list the cost of the land; however, the same release announced an additional \$1 million in business assistance, as well as “emergency assistance [...] to residents directly impacted by the situation in Caledonia.”⁵⁰⁴ The Ontario Ministry of Economic Development stated, “Our plan is to continue to work to get businesses, which are the engines of the local economy, back on their feet as quickly as we can.”⁵⁰⁵ Though Ramsay highlighted the potential of the purchase agreement to “cool the temperature in the community and around the table so that we can get some long-term decision-making at that negotiating table done,”⁵⁰⁶ Jamieson was not appeased.

That title and jurisdiction isn't placed back with Six Nations, is it? And that's what the issue is. They haven't begun to resolve anything with us, but as far as corporate Canada – they've done everything to appease them. Of course they would pay several million dollars to appease the developers and the business people. They would spend that money before they would even begin to resolve the land issue, which is the meat of the story anyway.⁵⁰⁷

County Council connected economic difficulties with the failure of the police raid:

For well over a year, Caledonia, and recently other communities in the County have become the lightning rods for First Nations frustrations over land claim inaction by the Federal Government. The result is a climate where the many development opportunities in Haldimand County are not being realized because of fear of occupations or demonstrations – occupations that the Ontario Provincial Police cannot or will not intervene in, other than to keep the peace. This is grievously affecting the County's economy and if allowed to continue much longer, will result in permanent damage because of lost opportunities... We cannot stand on the sidelines and watch this

⁵⁰³ Muse, “Judge playing dangerous game, says Janie Jamieson,” 1-2.

⁵⁰⁴ Ontario Ministry of Aboriginal Affairs, “Significant progress made in Caledonia dispute.”

⁵⁰⁵ Ontario Ministry of Economic Development, “Ontario provides financial assistance program for Caledonia area businesses.”

⁵⁰⁶ Oliviera and Erwin, “Ontario buys out Caledonia developer,” A1.

⁵⁰⁷ Ibid.

municipality's economy fail. We can no longer tolerate a situation that inhibits any future planning to realize this County's potential.⁵⁰⁸

Aboriginal Affairs declared that "a land claim can create a chill in economic development," necessitating settlements in order to bring about certainty.⁵⁰⁹ Trainer even complained that Ottawa and Toronto "have really lost focus about what this whole thing is about. They're forgetting about the [Caledonians] who are suffering every day – their nerves are shot, they're on tranquilizers, they're on heart medication. It's not a good thing."⁵¹⁰ Toby Barrett lamented:

At a time of year when construction and farming should be booming, a shroud of uncertainty has been created. Last week, at a meeting of 40 Haldimand County builders, it was reported some area property values have dropped 20 per cent [...] In recent years, communities along the Grand River saw impressive growth – economically, and in population. Now, due to the threat of illegal land seizures, construction crews are a rare sight within six miles of the Grand.⁵¹¹

In June 2007, County officials called for a face-to-face meeting with Stephen Harper. Citing the "millions and millions" that developers have invested in projects, Trainer demanded, "Why should they be held hostage for the rest of Canada? It's not fair."⁵¹² Six Nations' interests were submerged further when MP Finley took the initiative to ask Caledonians for opinions as to what should be done with the Douglas Creek Estates land when negotiations concluded, asserting that the land would still be owned by Ontario. "I have heard lots of talk of a swimming pool and a park," she said.⁵¹³ Canadian statements consistently equated 'progress' with 'justice' for everyone except Six Nations. Hazel Hill's remarks on the subject were numerous:

If I suggest that while the province of Ontario was quick to pay Henco over 15 million, put millions of dollars into the town of Caledonia for its trauma and hardships, perhaps it should put some of those millions into Six Nations since we do own the land, have never been paid any lease monies on any of the lands and their bill right now exceeds hundreds of billions of dollars, and they got the nerve to whine about a couple of hundred bucks for

⁵⁰⁸ The Corporation of Haldimand County, "News release from the Council of the Corporation of Haldimand County."

⁵⁰⁹ Van Driel, "Ontario's approach to land claims," 2.

⁵¹⁰ Puxley and Ditchburn, "Stop acting like kids, politicians scolded," A1.

⁵¹¹ Barrett, "Government can't ignore its role," 4.

⁵¹² Zronik, "Haldimand held hostage: Trainer," A1.

⁵¹³ Dawson, "Finley meets with Rotary Club," 3.

utility bills. Send the bills, but make sure you're ready to cut a cheque for at least a hundred million to start covering the damn rent you owe!⁵¹⁴

I heard the most ridiculous statement yesterday, that developers and 3rd parties who have been stopped from proceeding in their development plans actually believe we need to compensate them for their losses!!!! All my brain could comprehend when I heard that statement is that once again history repeats itself and I thought of how the crown was compensating the squatters for improvements on our lands in the 1800's (with our lease monies), totally ignoring the fact that the Six Nations hold title to those lands. [...] Only one thing I got to say to those developers and third parties ... it is the Crown who duped you, and it is the Crown who will answer to you... Look how quickly they took care of the Henning brothers.⁵¹⁵

On May 30, 2007, the federal government tabled a financial offer of compensation of \$125 million for four claims totalling about 38,000 acres.⁵¹⁶ The relative size of the offer must be contemplated in light of the foregoing conversations about compensation and justice and the millions spent on policing the occupation, as well as Six Nations' assertions of priorities to acquire land, not money. In the early months of the protest, on the suggestion of Six Nations negotiators, Ontario committed to hold off developing 7,300 acres of publicly owned land for a two-year negotiating period.⁵¹⁷ What happened to this early recognition of Six Nations' need for land? Excerpts from a December 2006 Confederacy Council press release⁵¹⁸ clearly state Six Nations' negotiating stance, explaining that "[r]esolution to outstanding Six Nations land rights will not be resolved simply by throwing money at Six Nations," and that while Canada is putting the onus on Ontario because it has no land to return, and Ontario is standing by its land registry, "that land was stolen from us and we are looking for fair equitable compensation for the loss of that land. Whether it was swindled or stolen it amounts to the fact that the underlying title is ours. Promises were broken and land has to be returned." To Six Nations, receiving money to buy back lands they believe they already own does not constitute justice. When the first offer was tabled, MacNaughton reiterated these statements yet again. "It being in an initial offer, we realize initial

⁵¹⁴ Hill, "Update from Grand River October 19, 2006," 2-3.

⁵¹⁵ Hill, "Hazel's update of April 12, 2007," 2.

⁵¹⁶ The Plank Road claim was not addressed in the offer.

⁵¹⁷ Ontario Ministry of Aboriginal Affairs, "Statement by Ontario's principal representative regarding provincially owned lands near Six Nations reserve"; Coolican, "Re: PIR lands."

⁵¹⁸ MacNaughton, "Statement: Chief Allen MacNaughton Six Nations Confederacy Council negotiating team response to Canada," 1.

offers are never accepted anyway. I guess it's a starting point to talk about things and I guess the only positive is it's obviously a recognition they owe us something."⁵¹⁹

Minister Prentice rationalized that "the ability I have under the policy is to advance money. And the money, of course, can be used to secure land, and that land can be converted to reserve status."⁵²⁰ The Confederacy officially neither accepted nor rejected the offer.⁵²¹ Unofficially, representatives were less equivocal. According to Leroy Hill, "On the issue of land, our mandate is clear. Land is what we need. Land is what we are after and land is what we are going to get."⁵²² MacNaughton restated Six Nations' reasons for grievance and hopes for solutions:

We made our position clear right from the start and for the whole year that it is not about money. We need the land back, we have concerns about the environment, encroaching development on our doorstep, not just here but all up and down the Haldimand Tract. It's about historic agreements that have never been addressed. Our priority is to get the land back and to discuss land usage and development along the tract. They came to us with a monetary offer and tried to put a spin on it saying we are asking for money. No! What we are asking for is an accounting of sales and leases over the past 200 years. We made these sales and leases for the sake of our people's upkeep and perpetual maintenance. We have been asking since the 1920s. At that time the response was an imposed elective system of government. Now we're asking for accountability again and they come up with \$125 m [...] To compensate us for four claims? That \$125 million wouldn't buy you two blocks of Moulton Township. They won't break that down.⁵²³

The Confederacy's official answer to the offer prompted a mid-June letter of reply from Ron Doering, who explained: "Canada does not own any significant land in the area to return."⁵²⁴ He sidestepped the notion of "extinguishment" of rights to land, instead focusing on "the need to achieve certainty and finality [to] ensur[e] that, from the conclusion of an agreement forward, the legal status of the lands is clear and all persons can rely on that status in the conduct of their affairs." The letter explains that the offer considered the specifics of each of the four claims, as well as "actuarial and risk principles" and consideration of "intangible values, like, for instance,

⁵¹⁹ Wallace, "Documents obtained by Osprey News puts price tag on settling Caledonia dispute: Ottawa to offer \$125 million," A1.

⁵²⁰ Maughan, "Caledonia offer 'a slap in the face'," A1.

⁵²¹ Windle, "Talks end - negotiations finally begin: Money not the issue, land should be returned," 1.

⁵²² Ibid., 2.

⁵²³ Ibid.

⁵²⁴ Doering, "Letter to Chief Allen MacNaughton," 1-3.

the desire to settle a matter sooner rather than later.” Because many of these factors cannot be assigned specific dollar values, he clarified, money was offered as a package deal.

Protesters did not buy it. In August, a demonstration was staged in front of Toronto’s Osgoode Hall to point out how Six Nations’ stolen funds had been used to build the law school: “They are offering us money that was made from the lands they stole from us.”⁵²⁵ Hazel Hill also cited moral and spiritual grounds for justice requirements, referring to Canada’s violations of agreements with the Haudenosaunee and Canada as well as violations against Creation.⁵²⁶

In the end, however, the status quo situation – unresolved claims – favours Canada. As Barbara McDougall put it in February 2007, “Peaceful negotiations – that’s the way to go. If it takes a long time, it takes a long time.”⁵²⁷ The offer of monetary compensation affords evidence that the federal government tried to address the unresolved land claims. However, Six Nations’ wait of several decades contrasts starkly with Henco’s near-immediate compensation. Federal avowals that no land is available to offer are probably truthful (they may also reflect unwillingness to lose face by acceding to protesters), but Six Nations had reiterated its priority of land over money since the negotiations started. To Canadians, this may seem a silly distinction – and there are those within Six Nations as well who would advocate simply using money to buy land – but it remains that the Confederacy Council firstly calls for land, and secondarily for compensation for loss-of-use of land. And the government’s willingness to shell out \$46 million in the first year of the reclamation is telling when placed next to \$125 million to settle four longstanding claims.

These discourses regarding justice and compensation are many-layered. There are debates about the slippery nature of ‘facts’ and the veracity of reports and documentation⁵²⁸ and disparities between the attention and compensation paid to Caledonians and that offered to the Haudenosaunee, as well as disagreement about the appropriateness of monetary settlements in the first place. Underpinning these questions, however, are the same deeply rooted differences

⁵²⁵ The Hamilton Spectator, “Caledonia protesters target Osgoode Hall, say claims money used to construct building,” A10.

⁵²⁶ Hill, “Update from Grand River November 16, 2006,” 4.

⁵²⁷ Nolan, “Caledonia negotiations near turning point,” A12.

⁵²⁸ Nolan, “McDougall, Stewart join team; Peterson suggests province buy protest site,” A6.

in the ways that Canada and Six Nations view themselves and their history of relationship: both assert the legitimacy of their respective law systems, and both assert that they come to the negotiating table only under their own law. Canada bases its conclusions of the legality of the surrender on British law passed down to Canada.⁵²⁹ Six Nations maintains just as strongly that its own interpretation of the events is based on the Great Law of Peace and the Silver Covenant Chain relationship established between the Haudenosaunee and the settlers.⁵³⁰ Stances on appropriate justice and settlement are clearly summarized in the Conservative government's statement regarding its refusal to ratify the September 2007 *UN Declaration of Rights of Indigenous Peoples*. The government explained that the *Declaration* failed to:

recognize Canada's need to balance indigenous rights to lands and resources with the rights of others [...] Since taking office in 2006, Canada's New Government has acted on many fronts to improve quality of life and promote a prosperous future for all Aboriginal peoples. This agenda is practical, focuses on real results, and has led to tangible progress in a range of areas including land claims, education, housing, child and family services, safe drinking water and the extension of human rights protection to First Nations on reserve [...] Canada's position has remained consistent and principled. We have stated publicly that we have significant concerns with the wording of provisions of the Declaration such as those on: lands, territories and resources; free, prior and informed consent when used as a veto; self-government without recognition of the importance of negotiations; intellectual property; military issues; and the need to achieve an appropriate balance between the rights and obligations of indigenous peoples, member States and third parties. For instance, in Article 26, the document states, "Indigenous peoples have the right to the lands, territories, and resources which they have traditionally owned, occupied or otherwise used or acquired." This could be used by Aboriginal groups to challenge and re-open historic and present day treaties and to support claims that have already been dealt with."⁵³¹

The statement implies that unless the rights of "others" are safeguarded, indigenous rights would smother them. By pairing the words "consistent" and "principled," the statement claims that refusing to see a new point of view is comparable to doing the right thing. The opposition proposed between the government's "tangible" and "practical" goals and the Declaration insinuates that the Declaration would ignore such priorities as drinking water and education. In

⁵²⁹ Government of Canada, "Federal legal response to Haudenosaunee/Six Nations' Presentation of November 14, 2006," 1.

⁵³⁰ Ibid., 13.

⁵³¹ Indian and Northern Affairs Canada, "Statement by Canada's new government regarding the United Nations declaration on the Rights of Indigenous Peoples," 1.

invoking the possibility that greedy First Nations might reopen settled land claims, the majority of claims, which sit unaddressed in a growing backlog, are ignored. More significantly, the statement speaks to a general projection of a forward-looking identity focused on “real” progress rather than concerning itself with old grievances. In December 2007, newly appointed Ontario Minister of Aboriginal Affairs Michael Bryant declared, “I don’t think people care about the constitutional responsibilities. I think they care about getting solutions and government stepping up to the plate. This government is stepping up to the plate.”⁵³² Six Nations’ ‘internal governance issues’ are a favoured theme. As Marie Trainer put it, “They can talk all they want, but who do you make the deal with? Six Nations have no one to blame but themselves.”⁵³³

Six Nations’ determination to make development decisions resulted in the establishment of the Haudenosaunee Development Institute (HDI) in the fall of 2007, asserting that they were free to exercise their sovereignty over land. As Hazel Hill put it, “As far as I’m concerned, the land is already ours, given to us by the Creator. It really doesn’t matter how the Crown registers it on their side of the wampum, that’s up to them. All we need to do is start using it.”⁵³⁴ The statement released with the Haudenosaunee Development Protocol explained that it was meant to address the growing numbers of developers approaching the Confederacy Council. The protocol requires developers to approach the HDI directly to ask permission to develop on disputed lands, outlining that “The [HDI] may grant permission for development in or on the areas described” if its environmental standards are met, the proponent agrees to enter contracts deemed necessary by the HDI, and the development is “in accordance with any Regulations or policies developed pursuant to this Protocol.”⁵³⁵ The HDI requires copies of project plans and provides for possible levying of fees for permission to proceed.⁵³⁶ Allen MacNaughton described the HDI as a “positive tool” laying out consultation processes for developers caught in a void “being created by the Crown’s, in right of Canada and Ontario’s, failure to resolve the Six Nations land rights,” and expects municipalities to work with the HDI “in accordance with the laws of

⁵³² Puxley, “Caledonia visit top priority: Bryant,” A1.

⁵³³ Puxley, “‘Too many voices’ hindering Caledonia talks: Six Nations chief,” A1.

⁵³⁴ Hill, “Hazel’s view from the Table,” 7.

⁵³⁵ Haudenosaunee Development Institute, “Haudenosaunee Development Protocol,” 1.

⁵³⁶ *Ibid.*, 2.

Canada, in right of the Crown, which requires them to fully consult with the Haudenosaunee of the Six Nations prior to the issuance of permits for any development on our unceded territory.⁵³⁷

MacNaughton compared the HDI to Canada's ministries;⁵³⁸ as lawyer and protocol drafter Aaron Detlor explained, "If you do not have a permit and you proceed, it's our position that you are doing so in an unlawful manner."⁵³⁹ A letter was sent to Haldimand Council announcing that unless the HDI was consulted, "all development will come to an utter and complete stop."⁵⁴⁰ To Hazel Hill, the HDI was a "positive" step taken because Ontario "continued to advise the developers that it was business as usual on unceded lands, and continued using the Grand River Notification Act that requires them only to notify the [Elected Band Council] that a development is being considered."⁵⁴¹ Referencing court decisions ordering consultation and accommodation, Hill asserted, "WE DO NOT NEED ANYONE'S PERMISSION TO MAKE AND ASSERT LAWS UPON OUR LANDS. We are at liberty to enter into agreements with whomever we so desire to protect the interests of our future generations, and we fully intend to continue doing so."⁵⁴²

Brantford MPP Levac interpreted the HDI as an attention-grabbing move to try to get the federal government to recognize and deal with claims, pointing out that the HDI is not based in Ontario law or land registries.⁵⁴³ Mayor Trainer asserted that the HDI was infringing on "everybody's rights" and called for the government to "take a stand."⁵⁴⁴ In late October, Ontario explained, "Any attempt by the Haudenosaunee/Six Nations to extract concessions or payments from private landowners as a condition for allowing development to continue on private property has no basis in Ontario's land use planning system."⁵⁴⁵

⁵³⁷ MacNaughton, "Feds and provinces leave table," 9.

⁵³⁸ Windle, "Optimism for Christmas settlement," 10.

⁵³⁹ Legall, "Builder calls natives' fees 'Mafia shakedown'," A1.

⁵⁴⁰ Legall, "Six Nations warns of legal action over permits," A1.

⁵⁴¹ Hill, "Update from Grand River."

⁵⁴² Ibid.

⁵⁴³ Marion, "City can't comply with protocol: mayor. Municipalities must follow Ontario laws in granting permits to developers," A4.

⁵⁴⁴ Legall, "Builder calls natives' fees 'Mafia shakedown'," A1.

⁵⁴⁵ Windle, "Tensions at the negotiations noticeable," 5.

The Confederacy Council's response⁵⁴⁶ reiterates calls for maintaining the Two Row Wampum and Covenant Chain relationships and cites Ontario's lack of authority to dictate Haudenosaunee governance structures. "If land was stolen, as we know it was, provincial support for a registry system that authorizes that theft is institutional racism directed at the destruction of the Haudenosaunee." The HDI is intended to "determine that development, if it is going to proceed, does so in a manner consistent with Confederacy law which places a priority on the protection of the environment." MacNaughton repeated Six Nations' pledge that they would never deprive third parties of their lands, stating, "It is unacceptable that Ontario should continue to deprive our people of our lands and land rights. The Confederacy has no issue with how Canada or Ontario in right of the Crown administers its planning and development decisions along the Grand River, as long as it has had prior approval by the Confederacy."

Once again, a stalemate resulted which favoured the status quo. Bryant insisted that "in our view, consultation does not mean a veto over development"⁵⁴⁷ and stood by Ontario's "sound" title system: "I would encourage [Ontarians] not to participate in anything that sets itself outside of the existing process for development in the province of Ontario [...] as to whatever dealings we're going to have with the, so called, Institute, I just can't really say right now."⁵⁴⁸ The HDI did receive some recognition from developers "trying to work with the Haudenosaunee," as Hazel Hill described it. Others, she said, don't understand that "attending one confederacy council meeting, or having one meeting with the HDI isn't construed as consultation and doesn't mean a hill of beans as far as accommodation." However, development that is "in accordance with who we are, and what our law requires us to do, and that in simple terms is consistent with protecting the environment and the future" might be allowed to continue.⁵⁴⁹

Canada tabled a second offer of financial compensation on December 12, 2007, offering \$26 million to compensate for the flooding of Six Nations lands when the Welland Canal connecting Lake Erie and Lake Ontario was built. Ron Doering asserted that "we've done everything we can"

⁵⁴⁶ Dawson, "Six Nations responds to government," 1.

⁵⁴⁷ Six Nations "Iroquois" Confederacy, "Rotienneson urge the public to keep the peace," 1-2; Dawson, "Six Nations responds to government," A1.

⁵⁴⁸ Windle, "Bryant brings his wallet to Caledonia - rejects HDI," 2.

⁵⁴⁹ Hill, "Update from Grand River: Hazel Hill," 8.

sounded oddly familiar, asserting Canada's faith in negotiation over litigation and its commitment to "resolving the complex issues along the Grand River in Southern Ontario."⁵⁵¹ Both in this press release and on the Department of Indian Affairs web site,⁵⁵² Canada implies that Six Nations prefers litigation and that its earlier lawsuit for "historical" grievances was petty and unrealistic. It once again removes the historical and political context from the "issues," while statements that Canada "remains committed" masks the effort that it took Six Nations to get the government to the negotiating table. Doering's speaking notes related to the offer are peppered with familiar discursive moves emphasizing "a few basic facts" and the usual terms of "certainty."⁵⁵³ To the media, he described "a very fair and generous offer"⁵⁵⁴ indicating "that we are serious about the negotiations. They can use the money to acquire other land on a willing-seller, willing-buyer basis."⁵⁵⁵ "You can buy a lot of land for \$26 million."⁵⁵⁶ Allen MacNaughton agreed that "this is something we can consider"⁵⁵⁷ but warned once again that Canada should not consider the negotiations restricted simply to financial compensation⁵⁵⁸ and made sceptical comments about perceived attempts to extinguish Aboriginal title.⁵⁵⁹ However, Leroy Hill cautioned, "I don't think the problem is the people who are at the table. It's the orders they've been given."⁵⁶⁰

Each side's negotiation policies and cultural values intertwine and influence each other so snugly that it is impossible, indeed not illuminative or desirable, to attempt to separate deliberated strategy from deep-rooted beliefs and principles. For example, Canada's contention that financial settlement is reasonable because money can be used to buy land could be viewed cynically as a

⁵⁵⁰ Knisley, "Doering says negotiations can't go on forever," 3.

⁵⁵¹ Indian and Northern Affairs Canada, "Statement from Canada's representatives in Six Nations talks."

⁵⁵² Indian and Northern Affairs Canada, "Frequently asked questions - Canada's offer to Six Nations Welland Canal flooding claim."

⁵⁵³ Doering, "Senior federal negotiator's speaking points: Welland Canal flooding," 2.

⁵⁵⁴ Bradshaw, "Six Nations to 'consider' \$26-million offer in Welland dispute," A16.

⁵⁵⁵ Marion, "Six Nations offered \$26M to settle one land claim," A1.

⁵⁵⁶ Nolan, "Ottawa offers \$26m for claims; Welland Feeder Canal/Dunnville Dam," A7.

⁵⁵⁷ Bradshaw, "Six Nations to 'consider' \$26-million offer in Welland dispute," A16.

⁵⁵⁸ Marion, "Six Nations offered \$26M to settle one land claim," A1.

⁵⁵⁹ Campbell, "A standoff by the numbers," A14.

⁵⁶⁰ Harries, "Records show Caledonia land never given up, natives say: On anniversary of occupation, chiefs contend Confederacy leaders in past only leased areas," A14.

strategy to avoid raising public ire by ‘giving’ land to Six Nations. Allen MacNaughton recognizes, for instance, that one likely hindrance is the occupation itself: “Come hell or high water, they don’t want to give that land back. They don’t want to be seen to be giving in to protesters.”⁵⁶¹ It can also be viewed as a manifestation of a genuine cultural tendency to value goods in practical monetary terms. Likewise, Six Nations’ propensity to invoke spiritual and moral considerations in discussions of justice could be sceptically seen as a calculated strategy to bring in ‘the culture card’ to force Canada to tiptoe in fear of failing to be politically correct. Alternatively, they could simply be taken at face value. Trying to dissect parties’ motives into convictions and tactics might be an interesting exercise, but would inevitably obscure the power relations which have discarded Six Nations’ conceptions of history and justice in favour of Canadian notions, which are presented as universal values and norms in a discursive national space once again excluding Six Nations from legitimacy, from the government’s list of priorities, and from the index of actors possessing the right to shape spaces and places for themselves.

Conclusions

In this chapter, I set about to answer a set of questions. How does this dispute over land called Douglas Creek Estates and Kanonhstaton reveal the space-making projects of those who fight for it? What materialities emerge from these discourse practices – that is, how are the conversations about this land productive of actual landscapes? And what can we learn from this conflict about the cultural imaginaries implicated in past, present, and future relationships between the Haudenosaunee and Canada?

Six Nations protesters chose their site strategically. The town of Caledonia was going about its business, and attention was immediate and enduring. Had a site less central or contested been selected – many of Six Nations’ twenty-eight claims, though also unresolved, are much less disputed by Canada – the conversations about the dispute would have been shaped differently, and possibly there would have been less outrage from Canadians. But to the reclaimers, it was never about Caledonia, though many did feel that “it would certainly be in the best interests of

⁵⁶¹ Zronik, “12 months later, there is no end in sight to the dispute over native land claims. ‘This is going to take a long time,’ says a federal negotiator,” A1.

the towns and villages along the Grand River to join Six Nations in demanding their governments settle all outstanding claims.”⁵⁶² As the protests spread to other places, this should have become apparent: certainly Six Nations made no secret of their emphasis on the federal government’s lack of attention to unresolved claims, calls for recognition of sovereignty, and the ways in which identity, land, and future were so inseparably intertwined. “There is nothing more important than the land... and for Six Nations, it has always been about the land [...] The outside world has made it a protest, a hostage situation of a small Ontario town called Caledonia.”⁵⁶³

The public identity enacted by Canada is one that prioritizes ‘facts’ and reality, focuses on the future rather than ‘historical events,’ and spotlights economic potential of the land and scientific management of development and population through rational legislation. Caledonia is presented as a white space of ‘normalcy’ disrupted by wilful protesters with a historical bone to pick, and its beleaguered residents and business owners are reimbursed for their inconvenience in short order. The relationship between Six Nations and Canada is consistently framed as one of jurisdiction rather than equal footing, with the corollary that the reclamation is a criminal matter rather than the outcome of long-ignored relationships. Canada views political difference within Six Nations as an impediment to the negotiations, but does not acknowledge the ways in which its own internal conflicts both between provincial and federal governments and between Supreme Court jurisprudence and on-the-ground property and development law trap First Nations’ land rights between developers and the Canadian government. ‘The rule of law’ serves as a discursive theme, which excludes Haudenosaunee law from consideration and shapes justice according to Canadian frameworks of compensation and understanding.

Canadian perspectives relegate the *reasons* for the occupation to some unimportant time in the past, and at the same time often look no further back than February 28, 2006. But to Six Nations, this situation called a reclamation dates back to the early settler days, when the Two Row Wampum and Covenant Chain relationships were established. It dates to the 1800s, when squatters were permitted to encroach on Six Nations lands and pressure tactics led to a questionable ‘purported surrender’ of land. It dates to 1924, when the Crown “used an armed

⁵⁶² Green, “Road to the Reclamation,” 52.

⁵⁶³ Ibid.

force to bring in its Indian Act Council in an attempt to destroy our culture, our heritage, and our ancestral rights to the land.”⁵⁶⁴ It dates to 1959, when a first attempt was made to take back the council house and was crushed by the RCMP, who declared it “illegal.”⁵⁶⁵ It dates to 1974, when Six Nations entered the formal claims process and began “waiting for the government to settle claims justly and fairly.”⁵⁶⁶ As MacNaughton puts it, it has proven “a case of history repeating itself. From massive subdivisions to nuclear power plants, Ontario and Canada have continued their policies of encouraging encroachment and development of Six Nations lands without our consent.”⁵⁶⁷ Six Nations representatives in the negotiations assert independence and the equal footing of Haudenosaunee law, make no bones about the importance of land to spiritual-cultural identity and sovereignty, frequently invoke concern for the environment in its demands for pausing and considering before proceeding with development. In daring to breach the orderly space of Caledonia in demands for recognition of their land rights, Six Nations also rejects Canadian demands for rationality over emotion, systematic economic development over moral considerations of relationship. They subvert Canada’s ‘rule of law’ discourse by pointing out the many ways that Canada has broken its own law, and point out how Six Nations people have literally been placed between third party developers and the government in efforts to force processes of consultation and development on disputed lands. They contend that justice demands return of what was taken – land – and assert rights to shape Haudenosaunee *Places to Grow* through the Haudenosaunee Development Institute.

The bare-bones story of the (first two years of) the reclaiming occupation of Douglas Creek Estates is comprised of people, places, and times combining to form events. Human actors interpret, contextualize, pass on, report on, and reconstruct these happenings. The conversations surrounding and constituting the story make it breathe in our minds and give it meaning. In this dance, this re-animation, past discourses and materialities intertwine to create new events, new physical realities, and profoundly shape stories-to-come. History is written on the ground and into the landscapes, and this dispute has had very material consequences. At the very least, it appears that what would have become Douglas Creek Estates is surely now

⁵⁶⁴ Hill, “Grand River update from Hazel Hill, March 10, 2007.”

⁵⁶⁵ Faulkner, “Historic house is ours; meeting place returned to traditional Six Nations leaders,” A10.

⁵⁶⁶ Green, “Road to the Reclamation,” 40.

⁵⁶⁷ Dawson, “Six Nations Chiefs look back on year-long reclamation,” 3.

Kanohstaton – ‘the protected place’ – though title remains disputed. This soil has been marked by construction and deconstruction, battle between protesters and police, fences and ‘no-go’ zones separating it from the rest of the town. The pace of development in Caledonia and other Haldimand Tract communities has undoubtedly been slowed, though not stopped entirely. The bodies of occupiers have stood as corporeal manifestations of Six Nations’ assertion of land rights, and bodies on both sides of the dispute have been injured, handcuffed, and jailed. Demonstrations in solidarity with Six Nations have occurred in cities like Montreal and across major Canadian highways. New histories are being inscribed on lands that Canada claims as its own; conflicts over self-determination are transformed into borders and topographies in Caledonia and beyond.

The discourses constituting this dispute over land demonstrate that the relationship between Six Nations and Canada is both unique and constantly being contested and re-negotiated, along with Canadian-First Nations relationships more generally. In examining this dispute with the tool of discourse analysis, as outlined in Chapter 1, I examine the ways in which classifications of reality in Caledonia indexed people, beliefs, and events into legal and illegal, logical and emotional, equal and different, just and unjust, normal and abnormal. These discursive moves work to structure Canadian imaginaries and create rationalizations for legitimate nationhood premised on racelessness, tolerance, jurisdiction, ‘normalcy,’ legality, forward thinking, and economic progress. Meanwhile, Six Nations is discursively placed in a space of deviance, stubbornness, incapacity, illegality, and backwardness, moves that serve to deny its claims to sovereignty and the right to shape spaces and futures for itself.

Debates about the right to shape space and place are occurring across the country with increasing intensity and frequency, and have much to say about the assumptions under which legal and constitutional regimes of Aboriginal title were designed in the first place. Canadian and Aboriginal identities presented ‘make sense’ in and of themselves, but are also proposed in opposition – or, at the very least, in relation – to each other. Geographical proximity, to say nothing of historical relationships, insists on these uneasy juxtapositions and intertwinings. This conflict in Caledonia reveals that Canadian cultural imaginaries of ‘our’ normalcy, law, justice, and future are defined, at least in part, in opposition to insistent Aboriginality; conflicts over terms of

belonging and autonomy will clearly have profound consequences for the nation-state we call Canada. These identities, imaginaries, and strategies, physically and discursively linked to similar stories across the nation and the globe, will be discussed further in Chapter 3, which explores the foundations for the discourses we see elaborated in Caledonia.

The discursive analysis presented in this chapter shows that deliberations over land ownership stand in for deeper and broader debates about the place of and the space for Six Nations (and other First Nations) in Canada, and rely heavily on ever-changing jurisprudence and legislation regarding Aboriginal rights and title to land and its management. If discourses reveal deeply embedded power relations and ways of structuring the world, then Canadian-First Nations relationships and conversations are due for a change. But we will see no such change without recognition of the necessity for new ways of shaping space. Chapter 4 explores possibilities for working towards new relations between settler Canadians and the people who lived here first, spaces of honest mutual recognition and spaces in which we all can grow.

Chapter Three

SHAPING ALL KINDS OF SPACES

People, language and land

The story of the discourses and conflicts over the land in Caledonia is not a singular tale. As the parties involved recognize and communicate to varying degrees, the struggle reflects much larger histories and realities at every turn. The feedback loops in this story are not merely between Caledonia and Brantford, Ottawa and Ohsweken, barricades and buildings. Cultivations of truth, ownership, and ownership of truth are ploughed into pastures across the nation and the world through conversations haunted by racialized logics, contested identities and histories, and differing visions of citizenship and sovereignty operating over distances of both space and history. These discourses – historical, legal, cultural, racial, economic, spiritual – wreak profoundly material effects on bodies, identities, and land, as we have seen in Chapter 2.

I take up this story at the borders of Governor Haldimand and Joseph Brant – both counties immortalized by their namesakes, both contested geographies and identities. My own position in the plot, of course, also is situated both within and outside of these borders. I am directly implicated in the happenings by virtue of my upbringing within the Haldimand Tract, my immigrant ancestors, and my enquiry into the dispute. Yet I have positioned myself not just as player but also adjudicator, another node connecting ideas and sites, writing from across the continent about a conflict just downstream from my family's home. Inter-weavings of place and identity are common-place yet convoluted, and never unchallenged.

How do conversations at Caledonia draw upon and re-articulate, both explicitly and implicitly, common space-shaping projects across the country, the continent, and the globe? How do the politicians, scholars, leaders, historians, citizens, and activists speaking and writing about this dispute over land access and reinvent complex arguments, discourses, and identities to fashion both physical and political landscapes? My project in this chapter is to spell out underpinnings of the discourses articulated over the land at Caledonia and explicate some of the motivations,

values, imaginaries, and strategies implicated in the space-shaping projects of the people involved in that dispute, who stake claims to the rights to define histories, economies, moralities, and national and cultural imaginaries.

Various theorists, scholars, and dreamers have much to say about the processes that shape and mingle geographic *and* political landscapes. Following Cindi Katz⁵⁶⁸, I propose 'topographies' as a conceptual framework encapsulating these ideas. Topographies assume that space both carries and reinforces uneven social relations and show how material ground is implicated in abstract political, social, and economic processes. By describing specific locations as well as global processes relating places to each other, we can *read* the land: "If history is lifeless without topography, so, too, are topographies without history."⁵⁶⁹ Though places may be historically and geographically discrete, they can be connected by common political-economic and socio-cultural processes. Derrida's notion of 'ontopology' points out a similar linkage between actual landscapes and less tangible phenomena. He suggests a relationship between an ontology and its situation in a specific locality, "the *topos* of territory, native soil, city, body."⁵⁷⁰

Topography and ontopology provide fertile introductory ground for an examination of the ways in which ontology (material being) and topos (territory, body, native soil) are connected through history and identity. The fertile Grand River Valley which so pleased Joseph Brant also inspired the Europeans who followed the Six Nations in settling there with its rich Carolinian forests, its fruitful soils, and of course, the scenic and resource-filled river itself. Had the land itself not been so bountiful, its future would have been shaped differently. And when the Grand River lands come into view, we should see not only managed landscapes of farms, homes, towns, parks, dams, and forests, but the ways in which conflicting conceptions of visions for - and rights to - the land have contoured these topographies. The ancestors of the Haudenosaunee have weighty ties to these lands, their hunting grounds since 'time immemorial,' and the Ohswe:kenhronon⁵⁷¹ formed this most recent settlement along the Grand River in 1784; they, along with the settler

⁵⁶⁸ Katz, "On the grounds of globalization"; Katz, "Vagabond capitalism and the necessity of social reproduction."

⁵⁶⁹ Katz, "On the grounds of globalization," 1228.

⁵⁷⁰ Derrida, *Specters of Marx: the state of debt, the work of mourning, and the new international.*, 82.

⁵⁷¹ See Hill, "The clay we are made of," 409. The word means 'We are of the Ohswe:ken-kind of clay and refers to the people of the Six Nations of the Grand River Territory.

communities who put down roots starting in the 1800s, identify intensely with the land and the outcomes of the human labour which mixed with it over millennia, centuries, and decades. But these identifications result not only from personal interactions with the land - both communities still welcome newcomers, who can hardly claim these specific affinities - but from definitions of ownership, community, and society which underlie the way territory is viewed in the first place. Claims to the land are also, significantly, about the birthright to these ideas and identities.

Kenneth Olwig explicates these ideas in his history of 'landscape,' explaining that though place is geographic, it "is also a special ensemble, with a history and meaning, incarnating the experiences and aspirations of a people."⁵⁷² Thus, a 'common place' landscape is often a "*topos* of place, community, and self in both the literal and the figurative sense" and is "contested both as an actual place and as the figurative site of an ongoing sociopolitical discourse concerning the relations between community, self, and place."⁵⁷³ Olwig shows how the notion of 'country' as both political community and geographic entity developed over time and in deliberate ways, not a given but rather the outcome of "a long historical process, through which the Renaissance architects of Britain defined Britain as a world apart vis-a-vis continental Europe, and America's founders defined America as a new world vis-a-vis Britain and Europe."⁵⁷⁴ New World discourses ostensibly concerned with land and nature actually also broach and reconfigure hidden historical agendas, equating landscape, nature, and nation by way of complicated notions about race, gender, belonging, and exclusion from the polity.

Nature shares a common root with *nativity*, *native*, and *nation*, and it is also related conceptually to *kin* and *kindred* and to the Latin concept of the *genus*, from which words like *gene*, *genetic*, and *generate* derive. There is thus a link between this sense of nature and the etymologically primary meaning of *nation* as 'an extensive aggregate of persons, so closely associated with each other by common descent, language, or history, as to form a distinct race or people usually organized as a separate political state and occupying a definite territory.' Whereas *country* was seen to be constituted as a legal community united by customary law, the *nation* was an expression of the bonds of blood and territory.⁵⁷⁵

⁵⁷² Olwig, "Landscape as a contested topos of place, community, and self," 93.

⁵⁷³ Ibid.

⁵⁷⁴ Olwig, *Landscape, nature, and the body politic*, xxiv.

⁵⁷⁵ Ibid., 125.

Olwig, like Katz, regards landscape – both the concept and the physical entity – as a historical document. Local custom and common law become inscribed on land through physical practice. Cartography and planning, crucially, assist in this make-believe process of creating ‘common-sense’ by providing methods to create “not only maps, but also the illusion of perspective.”⁵⁷⁶

What, then, might Olwig have to say about Ontario’s plan for *Places to Grow* and its designations assigning human density to one area and a ‘green belt’ to another? By asserting its right to manage the landscape and the people living on it, what is the government really claiming? Conjure up Caledonia, that quintessential southern Ontario town - perhaps our first mental images are of its tidy main street and picturesque businesses and parks. We might next envision bulldozers and construction; houses, which become homes and neighbourhoods, may intrude to do battle with memories of barricades and torn-up roads, human walls, flagpoles and fences. Wind the reel backwards several decades, and we resurrect footage of the paving of town squares, the erection of plaques commemorating town founders and forgotten Indians, the ploughing matches and the fall fairs. Hit reverse again to the 1800s: a new settler’s farm here, a Seneca village there – perhaps there’s still plenty of space, both physically and culturally. Squint carefully to the 1780s, and we might glimpse Joseph Brant, surveying the lands of the Grand River and declaring them to be good, a home for his kinsmen that could assure them a sound future as sovereign Haudenosaunee people.

These images created the Grand River landscape - both cultural and visible - that we encounter today, and the disputes over land in the region consist of nothing less than competing claims to shape its political and corporeal future. Place creation is an interactive process between humans and their surroundings.⁵⁷⁷ People carry out far-from-meaningless actions to alter their environments: erecting boundaries, building homes and defending them, raising memorials and markers, naming places, telling stories, building social networks, and enacting rituals and practices such as harvests and celebrations at the same locations and times each year. These individual and collective experiences develop social intelligibility of place, so that “people can be seen to be dependent upon the concept of place for their self-identity (and social-identity), just

⁵⁷⁶ Ibid., 216.

⁵⁷⁷ Memmott and Long, “Place theory and place maintenance.”

as places are dependent on people for their identity.”⁵⁷⁸ The building of Caledonia, then, was more than the building of bridges, dams, schools, and churches. As Moore, Pandian, and Kosek explain, contested terrains are shaped by characterizations and orderings, namings and listings to create “geographies of belonging and exclusion,” landscapes of identity:

Nature as contested terrain both grounds material struggles over environmental resources and refracts racial essences through the discursive prisms of nation, population, and gene. Race and nature reach far beyond biology and ecology, science and state, also crafting interior landscapes of sentiment and selfhood.⁵⁷⁹

The organization of the New World was accomplished by assigning Aboriginal peoples to the taxonomies of flora and fauna firmly below the colonizers on the ladder of the ‘Natural Order of Things,’ their bodies, populations, and histories rightfully exposed to subjugation, exclusion, and erasure from both culture and landscape.⁵⁸⁰ Powerful groups utilize nature to establish and maintain subjects, truths, identities, and differences. For instance, in labelling a particular place *wilderness*, it is possible to symbolically (and later, physically) erase the (different) people who live there, and so struggles over resources and territory are both figurative and material. Self, community, and landscape are irretrievably interwoven: “material practices through which places ‘make sense’ often have profound emotional reverberations” while “sentiments themselves work to fashion the living world of experience” through particular imaginaries of landscape and place.⁵⁸¹ Racialized histories are deeply implicated in these processes: “identities are the names we give to the different ways we are positioned by, and position ourselves within, the narratives of the past.”⁵⁸² Sherene Razack asserts that spaces do not evolve separately from their inhabitants, but twine material and symbolic processes: “perceived space emerges out of spatial practices, the everyday routines and experiences that install social spaces.”⁵⁸³

Stories weaving race and space, identity and geography, discourse and political difference, have been told by scholars working in diverse disciplines, often with potent resemblance and relevance

⁵⁷⁸ Ibid., 40.

⁵⁷⁹ Moore, Pandian, and Kosek, “The cultural politics of race and nature: terrains of power and practice,” 11.

⁵⁸⁰ Ibid., 12.

⁵⁸¹ Ibid., 32.

⁵⁸² Hall, “Cultural identity and diaspora,” 225, as cited in Moore, Kosek, and Pandian, 40.

⁵⁸³ Razack, *Race, space, and the law*, 9.

to the dispute over land – though as we have seen, it is much more than that – in Caledonia. Sherene Razack⁵⁸⁴ and Bruce Braun⁵⁸⁵ explore the ways in which privileged white people are able - and define themselves by their ability - to externalize risk by creating spaces purged of undesirable land uses or peoples. National mythologies of innocence posit that white people came to lands empty for practical, if not actual, purposes: Aboriginal peoples either did not count or were presumed doomed to inevitable assimilation or actual extinction. Encounters with the ‘wild’ and visits to the Other are firmly situated in modern discourses of nature and nation which establish racial and class orders as common-sense. The disruption of Caledonia’s figurative (sometimes literal) picket fences, then, disturbed established spaces of security and order.

In a more extended treatise on exclusion and erasure, Braun exposed the (in)temperate rainforest of Vancouver Island as a cultural and political space which is nevertheless presented as a blank canvas outside politics. Scientized discourses portray the forest as solely natural (and therefore not human); early explorers separated descriptions of ‘nature’ from those of Native peoples who actually lived there; and environmentalists have much to gain by presenting the forest as a wilderness where noble First Peoples *used* to live. These ongoing colonial presentations of space continue to remove the Nuu-Chah-Nuulth people from their real and present habitations there and exclude them from decision-making. The economic and the cultural, the political and the epistemological, the technical and the ecological are not distinct ontological domains. As Braun puts it,

The discursive and the material do not just coexist – a notion that retains their essential difference – but implode into knots of extraordinary density [...] The chain saws and bulldozers of industrial forestry are not merely machines; they embody cultural and economic relations too.⁵⁸⁶

Braun’s work has much to say about the hegemonic powers of ‘rational’ discourses emphasizing management and planning which operate so powerfully at Douglas Creek Estates and in others of Ontario’s designated *Places to Grow*. He also emphasizes how the colonial ‘past’ still shapes the present, though such continuities may not always be “the result of deliberate and sinister

⁵⁸⁴ Razack, *Race, space, and the law*.

⁵⁸⁵ Braun, ““On the raggedy edge of risk”: articulations of race and nature after biology.”

⁵⁸⁶ Braun, *The intemperate rainforest*, 19.

strategies to exclude and silence,” but discursive practices that “simply reiterate other, earlier displacements that have receded from memory to become taken-for-granted elements in how people envision and speak about nature and culture.”⁵⁸⁷

In a similar vein, Cole Harris examines the history of land theft and reserve creation in British Columbia,⁵⁸⁸ undertaken nearly completely without any forms of agreement with the First Nations living there. His *Making Native Space* is a chilling exposé of settler discourses positing native incivility which created a theatre for social engineering seeking to eliminate those (Aboriginal) elements deemed undesirable. The “Indian land question” raises fundamental questions about individual and group-differentiated rights in a liberal democracy such as Canada, where a ‘universal’ socio-cultural evolution culminating in ‘civilization’ left little room for continuing cultural difference. Policies such as an 1846 edict declaring that only Native land which was fenced or built upon could be regarded as properly owned - all other land was regarded as waste - turned intangibles of difference into concrete theft. He concludes:

[T]he initial ability to dispossess rested primarily on physical power and the supporting infrastructure of the state; the momentum to dispossess derived from the interest of capital in profit and of settlers in forging new livelihoods; the legitimation of and moral justification for dispossession lay in a cultural discourse that located civilization and savagery and identified the land uses associated with each; and the management of dispossession rested with a set of disciplinary technologies of which maps, numbers, law, and the geography of resettlement itself were the most important.⁵⁸⁹

These postures and methods continue to be relevant. The legitimation of continuing dispossession of Six Nations rests securely on reanimated ideologies and visions of Canada as tolerant and progressive, and inferences as to Six Nations’ (in)ability to govern itself and (un)willingness to ‘fully develop’ the land. By this reasoning, if Brantford and Caledonia already have plans for lands under claim, Six Nations does not deserve to have it. And these stories are by no means limited to Canadian contexts. The topography of landscape formation brings us to New Mexico, too, where Jake Kosek tackles the cultural politics of race, class, and nation in his

⁵⁸⁷ Ibid., 23.

⁵⁸⁸ Harris, *Making native space* ; Harris, “How did colonialism dispossess?.”

⁵⁸⁹ Harris, “How did colonialism dispossess?.”

study of the disputes over the forests there.⁵⁹⁰ The various discourses mobilized by activists, forest managers, and residents about the forests are underlay by deeply racialized politics posing some groups as rightful (because ‘rational’) managers and indexing Indigeneity otherwise. The management of nature, Kosek says, has been the primary mechanism by which institutions of governance have been fashioned and manoeuvred to manage human and nonhuman bodies and populations. We follow topographical contour lines to Australia with Allaine Cerwonka,⁵⁹¹ whose ethno-geographical work illuminates ongoing nation-building projects working through seemingly mundane, yet highly spatialized, practices such as policing and gardening. Australian imaginaries position certain groups, especially indigenous and immigrant people, as threats to society and territory, popular championing of multiculturalism notwithstanding. Juanita Sundberg and Bonnie Kaserman paid attention to similar processes operating on the United States-Mexico border.⁵⁹² Their analysis sought to disrupt national imaginaries of country, community, and identity by asking how disputed places such as this are enlisted to label people as illegal and dangerous. Public representations of threats to nature work to exclude certain bodies from the “category of rights-claiming individuals”⁵⁹³ and justify violent border enforcement by highlighting the illegal contamination of space by border crossers.

Sundberg’s investigation of environmental justice in Latin America⁵⁹⁴ explicitly calls researchers to take race seriously “as a critical variable in organizing inequality” since “[p]rocesses of racialization are rarely incidental to the distribution of natural resources, predominant visions of appropriate land use,” and other elements of decision-making⁵⁹⁵ (as we have seen along the Grand River). Indigenous, mestizo, and non-male persons were deemed unqualified for citizenship, sidelined from a supposedly liberal society of universal rights, while hegemonic European conceptions of orderly development discarded indigenous agriculture and environmental management as “irrational” and “unproductive,” using these categories to design legal systems around white privilege and vision.⁵⁹⁶

⁵⁹⁰ Kosek, *Understories* .

⁵⁹¹ Cerwonka, *Native to the nation* .

⁵⁹² Sundberg and Kaserman, “Cactus carvings and desert defecations.”

⁵⁹³ Sundberg, “Placing race in environmental justice research in Latin America,” 740.

⁵⁹⁴ Sundberg, “Placing race in environmental justice research in Latin America.”

⁵⁹⁵ *Ibid.*, 579.

⁵⁹⁶ *Ibid.*, 573.

Clearly, the processes that tie together territory, land, and identity do their work across the globe. In Canada, the United States, Australia, and New Zealand, however, a particular brand of colonialism laboured to circumscribe British concepts of law and title on Indigenous lands.⁵⁹⁷ The particulars operated differently in each context, which only emphasizes the non-neutrality of colonialism's differential trajectories. If imperialism were a given, and Indigenous peoples and lands vacant canvases awaiting civilization's benevolent hand, surely these processes would have functioned uniformly across time and space. Edward Said's *Orientalism*⁵⁹⁸ connected the dots between language and forms of knowledge which justified European occupation through belief in the fundamental distinction of the Other. He also pointed out the heart of it all:

Underlying social space are territories, land, geographical domains, the actual geographical underpinnings of the imperial, and also the cultural context. To think about distant places, to colonize them, to populate or depopulate them: all of this occurs on, about, or because of land. The actual geographical possession of land is what empire in the final analysis is all about.⁵⁹⁹

These processes continue to operate, giving lie to the jargon of 'postcolonialism.' Marie Battiste explains: "Indigenous thinkers use the term 'postcolonial' to describe a symbolic strategy for shaping a desirable future, not an existing reality. The term is an aspirational practice, goal, or idea."⁶⁰⁰ Following Said today means recognizing that "colonial power operates in and through discursive practices as well as juridical-political ones," both in colonial and neo-colonial contexts.⁶⁰¹ We see self-interested settlers and remote governments, differential access to the law, difficulties managing the early settler frontier, and the new common sense human geography of settlers; technologies of governance include military might, capital's interest in access to land, discourses privileging Western priorities, and the management of bodies and land

⁵⁹⁷ See Peter Russell, *Recognizing Aboriginal title*, for a comparative study of settler states' gradual movements towards acknowledgement of the fallacy of *terra nullius*.

⁵⁹⁸ Said, *Orientalism*.

⁵⁹⁹ Said, *Culture and imperialism*, 78, as cited in Harris 2004, 167.

⁶⁰⁰ Battiste, "Introduction," xix.

⁶⁰¹ Braun, *The intemperate rainforest*, 23.

by counting and cartography. As a result, “no one body of theory offers a sufficient interpretation of colonial power.”⁶⁰²

With this introduction to the ways in which space is shaped into place and polity through discursive and legal refractions of difference, then, I turn to one of the most powerful tools in Canada’s box, one which operates as powerfully in Caledonia as it does in other sites of contestation: the nation’s identity. As we saw in Chapter 2, the discourses elaborated at Kanonhstaton both rely on and advance Canadian imaginaries predicated on raceless multiculturalism, individual property rights, rule of law, economic progression, and distinction from irrational and illegal Aboriginality. The discussion below both elaborates on these imaginaries and points out their inconsistency and incoherency, demonstrating how Canadian claims to the right to shape spaces and landscapes, which turn on assumptions of legitimate nationhood and universal morality, are in fact riddled with contradictions.

Canadian identity: spaces of difference

Societal discourses demarcate for a given time and place what can and cannot be said.⁶⁰³ Certain expressions and ideas are conserved across space and time; other tropes and theories are reactivated, renovated, or incorporated into new texts and contexts. Discourses are simultaneously nomadic, relentless, and pliable; narratives hitchhike surreptitiously along with ostensibly independent domains of thought. Canada’s creation myth – Peace, Order, and Good Government - is plaited throughout the discourses employed in the conflict along the Grand River. This myth and its sidekicks - Economic Development and Multicultural Tolerance - are so entrenched in the public consciousness that only shorthand references are required to hear their voices. This has critical repercussions for the perceived legitimacy of the struggles of Aboriginal peoples in Canada, and for the national landscape shaped by these discourses. In this section, I explore narratives of Canadian identity: in many ways, this country is built on racialized foundations of colonialism opposing Canada with Aboriginality; exclusive liberal conceptions of individual rights; and the primacy of capitalist visions of economic development. How does the

⁶⁰² Harris, “How did colonialism dispossess?,” 179.

⁶⁰³ Michel Foucault, as explained in Fairclough, *Analysing discourse*

Canadian cultural imaginary work through simultaneous denial of and opposition to the Nations who played such absolutely fundamental roles in the shaping of this nation? How do the discourses constituting the dispute in Caledonia evidence these (possibly unconscious) strategies which work to exclude Six Nations' identities, priorities, and rights to shape space?

National discourses can create tremendous exclusions of certain groups from legitimacy and from actual places. As Howard Winant explains,

The successes of anti-racist and anti-colonial movements in recent decades are being transformed into new patterns of racial inequality and injustice. The 'new world racial system,' in sharp contrast to the old structures of explicit colonialism and state-sponsored segregation, now presents itself as 'beyond race,' 'color-blind,' multicultural, and post-racial.⁶⁰⁴

In this way, blatant colonialism is appropriated by the paradigm of economic development; public identities shift from declarations of difference to avowals of sameness in multiculturalism; racism hides in the language of law and rights. In his work on elite discourse,⁶⁰⁵ Theo van Dijk focuses on societal 'élites' such as politicians, who dominate symbolic reproduction.⁶⁰⁶ Individual persons' statements *are part of* the institutions they represent; in fact, individual statements such as those made by representatives for Canada in the Caledonia dispute, often do not appear racist at all. Because they often view themselves as moral leaders and attempt to dissociate from racism as they define it, elites typically respond to challenges from minority groups with denial and marginalization, quickly forgetting "the norms of tolerance and the values of equality that they supposedly espoused"⁶⁰⁷ and claiming that 'political correctness' has gone too far. We heard just such a claim about political correctness from MPP Barrett in his frustration over the slow pace of negotiations. The difference between asserting that one is 'against racism' and consistently supporting anti-racist actions, then, is crucial. For instance, though organizers of a public meeting held in a town near Ipperwash during that protest were anxious to affirm that the group was not anti-Indian, one attendee observed that "if the organizers had said 'Let's get the Indians' the

⁶⁰⁴ Winant, *The world is a ghetto*, xiv.

⁶⁰⁵ van Dijk, *Elite discourse and racism*.

⁶⁰⁶ *Ibid.*, 11.

⁶⁰⁷ *Ibid.*, 9.

place would have emptied in a minute.”⁶⁰⁸ Home-grown anti-Indian movements often arise during conflicts over land, and politicians’ use of terms such as “one law for all” and “all Ontarians are equal,” as we heard in Caledonia, are undoubtedly influenced by public sentiment, lending support to the suggestion that “in Canada [...] Indians have rights as long as they do not try to exercise them.”⁶⁰⁹ Though influenced by media, public experts and academics, politicians and administrators still “set the terms and boundaries of public debate and opinion formation.”⁶¹⁰ Their discursive moves, amidst “loud claims about freedom, democracy, tolerance, hospitality, and ‘long traditions,’”⁶¹¹ are significant.

In Caledonia, we see evidence of discursive tactics, outlined by van Dijk, which work to create exclusionary “us” and “them” spaces in sneakier ways. For example, disclaimers such as “we respect our neighbours at Six Nations, *but ...*” are often followed by negative statements. ‘Apparent altruism’ is at work in claims that it would be better for Six Nations if they could resolve their internal governance issues: ‘for their own good,’ not for ours. Quasi-objective numbers are used strategically: when Canadian representatives complain about taxpayers’ money offered as compensation for land claims, figures are generally not quantified as percentages of budgets or in comparison to damages paid to other parties filing grievances to the government. The very terms of debates surrounding ‘diversity’ – public conversations around multiculturalism and First Nations cultural difference – work to pose it as a ‘problem’ that must be solved or managed, usually without ‘their’ participation.⁶¹² A public discourse of ‘homogenism’ hides beneath the dominant rhetoric of tolerance and good intentions, assuming that (individual) tolerance behaviours are the antidote to racism. The ability to combat hegemonic and institutionalized racism is reduced by this diversion of attention from the political to the personal. Michael Clyne explains that race-talk’s ability to secrete itself in discussions of ‘cultural difference’ and egalitarianism belies the reality that racial hierarchy lives on in virtually every setting from the local to the global, both explicitly and indirectly. While overt racism is usually easy to identify, covert racist discourse has pretensions of objectivity, pragmatism, and

⁶⁰⁸ Bobiwash, “The sacred and the profane: Indigenous lands and state policy,” 208.

⁶⁰⁹ Ibid., 207.

⁶¹⁰ van Dijk, *Elite discourse and racism*, 50.

⁶¹¹ Ibid., 77.

⁶¹² Blommaert and Verschueren, *Debating diversity*.

acceptance of a shared liberal framework,⁶¹³ which can “have the effect of confusing the uncommitted into accepting a racist position as a rational and broad-minded one.”⁶¹⁴ Even the speakers themselves must often be unaware of the race-based claims they make, as in Caledonia and Brantford.

What makes (racialized) Eurocentric identities particularly shifty, as James (Sakéj) Youngblood Henderson explains,⁶¹⁵ is that they do not make obvious assertions to privileged norms vis-à-vis other cultures, but couch their project in claims to universality and generality.

Because colonizers consider themselves to be the ideal model for humanity and carriers of superior culture and intelligence, they [...] believe that they have the power to interpret differences, and this belief shaped the institutional and imaginative assumptions of colonization and modernism.⁶¹⁶

As outlined in Chapter 2’s investigation of the mobilization of ‘normalcy’ in Caledonia, Six Nations definitions of what constitutes a ‘normal’ state of affairs are regularly backgrounded to Canadian conceptions of order, (Canadian) law, progress, and multiculturalism marked by ‘tolerance’ to one’s ‘neighbours.’ When Diane Finley promises to get Caledonia ‘back to normal,’ she is staking a discursive claim to the right to define what is acceptable in a normal world and clearly marks a space where “we” belong and where “they” do not. As Kobayashi and Peake argue, these racialized realities are so pervasive that no interrogation of organized society can take place without noting white privilege and acknowledging powerful ideologies of ‘normalcy’ and ‘ordinariness’ marked by moral superiority, safety, and corresponding deviations by Others.⁶¹⁷ In Canada and elsewhere, racism still manifests physically in stratified access to lands and resources, health care, length of life, literacy, and income, despite a growing tendency to operate as if oppression has been largely rectified – as it was in Caledonia, with references by the OPP to the rich history of the Grand River or by County Council’s references to healthy relationships with Six Nations, both of which ignore past and present injustices. “This new, officially *post-racial* politics

⁶¹³ Clyne, “Establishing linguistic markers of racist discourse,” 115.

⁶¹⁴ Ibid., 118.

⁶¹⁵ Henderson, “Postcolonial ghost dancing: diagnosing European colonialism.”

⁶¹⁶ Ibid., 65.

⁶¹⁷ Kobayashi and Peake, “Racism out of place.”

may be more effective in containing the challenges posed by movements for racial justice [...] than any intransigent, overtly racist backlash could possibly have been.”⁶¹⁸ Canada officially denounces racism, yet has simply shifted from open domination through segregation and colonialism to hegemony functioning by appeasing moderates through apparent reforms. Racism’s consequences can be identified more easily than its distanced perpetrators. In Ontario, we see it in the lip service paid to consultation and accommodation of First Nations, a right confirmed by the Supreme Court but functionally ignored; we taste it in the water at Six Nations, which lacks proper treatment facilities; and we hear it in the assumptions about ‘them.’

Indeed, the ways in which Canada was defined and structured in opposition to indigeneity were easier to identify in the past, but important continuities persist. The popular concept of social evolution, for instance – human development moving along a scale from barbarism to civilization – found remarkable stability in Ontario elementary and secondary school textbook descriptions of Indians between 1857 and 1980,⁶¹⁹ raising young Canadians on deeply racialized notions since before Confederation. These ideas may contribute to the continuing criminalization of Aboriginal people by the highly discretionary processes of police charge and conviction.⁶²⁰ Socio-economic class (highly correlated with race) and strategies in which Aboriginal people deliberately position themselves in opposition to Canadian law likely play their parts. Often, however, the ‘victims’ of crimes for which Aboriginal people are charged are the police officers themselves (using charges of resisting or hindering arrest, or of offensive behaviour), or notional communities (in cases of public disturbance, for instance). Representations of Aboriginal people in Canadian news coverage of conflict moments have also showed dismaying consistency since the mid-1800s in construction of ‘us’ and ‘them’ groups.⁶²¹ Many of these themes are explicated in the conversations about Caledonia. ‘We’- the white audience to whom the dominant intra-group discourse *about* the minority ‘Them’ was directed – are governed by reason, follow the law, make rational decisions, and offer thoughtful insights into problems. The ‘rule of law’ discourse explored in Chapter 2 is a prime example of the way that ‘the law’ (as if there were only one

⁶¹⁸ Winant, *The world is a ghetto*, 289.

⁶¹⁹ Ofner, “The Indian in textbooks.”

⁶²⁰ Cunnean, “The criminalization of Indigenous people”; Furniss, “Challenging the myth of indigenous peoples’ ‘last stand’ in Canada and Australia: public discourse and the conditions of silence,” 190.

⁶²¹ Harding, “Historical representations of aboriginal people in the Canadian news media.”

system of law) is mobilized in support of exclusionary Canadian spaces. 'They,' on the other hand, are dominated by emotion, are prone to 'cry' and 'confront,' cost 'us' money by causing trouble, are more susceptible to corruption, and pose threats to 'our' economic development.

The very existence of this intra-group discussion is a marker of differential access to institutional power through media, which, along with access to legal power, the criminal justice system, and education, has been and continues to be held primarily by white Canadians. Media coverage helps to sustain public ignorance about official policy regarding Aboriginal people, as well as "Canadian society's general amnesia about the country's colonial history and its connection to the starkly unequal relations that exist between Aboriginal and non-Aboriginal people."⁶²² Active biological racism has subsided into sanitized ethnocentrism preaching equality of opportunity and cultural pluralism, and white Canada's ability to shift discourse away from Six Nations' concerns such as overarching land rights and sovereignty to limited issues such as financial compensation, and to abstract the dispute 'issue' from its historical and political contexts, has colossal corollaries in terms of the currency of public debates. But Indians were/are not simply positioned at the bottom of the social evolutionary ladder in the Canadian nation-building project. More than that, Daniel Francis says,

If any single belief dominated the thinking about Canadian aboriginals during the last half of the nineteenth century, it was that they would not be around to see much of the twentieth. Anyone who paid any attention at all to the question agreed that Natives were disappearing from the face of the earth, victims of disease, starvation, alcohol and the remorseless ebb and flow of civilizations.⁶²³

What reason, then, to interact with them as people rather than as essentialized sages or warriors? Today, this attitude manifests itself in a 'get with the program' discourse which demands that Six Nations cease calling for recognition of rights: Canada is going to march on, with or without you. We would feel better about ourselves if you hopped on the economic bandwagon, but if you don't want to, at least don't get in the way.

⁶²² Ibid., 206.

⁶²³ Francis, "The imaginary Indian: The image of the Indian in Canadian culture," 236.

Venerated Canadian artists like Paul Kane and Emily Carr assumed the task of documenting these species vanishing ‘into silent nothingness’ – indeed, their artistic success depended on romanticized images of the supposedly destroyed Aboriginal cultures.⁶²⁴ Denial of enduring Aboriginal cultures and nations officially persisted until the failure of the 1969 White Paper (unofficially, it still continues). In the discussions leading to the drafting of the Paper, Prime Minister Trudeau commented: “in terms of *realpolitik*, French and English are equal in Canada because each of these linguistic groups has the power to break the country. And this power cannot yet be claimed by the Iroquois, the Eskimos, or the Ukrainians.”⁶²⁵ Trudeau was proved wrong in his assumptions about the strength of Aboriginal opposition, but prescient in pointing out the connection between protest and recognition, both evidenced in Caledonia. Francis’ own perceptions of First Nations people continue to conflict, he says: what leaps to mind first is a man sitting on a roadblock, holding a rifle. Only afterwards does he recall Elijah Harper calmly twitching an eagle feather in the Manitoba legislature in dissent with the Meech Lake Accord, “bringing the process of constitutional change in the country to an abrupt halt. The warrior versus the wise elder; it turns out that the images of Indians we are offered today are not much different from what they have always been.”⁶²⁶ The ambivalence in Canada’s history - defining our civilization and development in opposition to Aboriginal barbarism, yet revering Aboriginal people for their unique relationship with nature – did not prepare us well for a relationship predicated on equal partnership rooted in real appreciation and comprehension of difference.

The fantasies we told ourselves about the Indian are not really adequate to the task of understanding the reality of Native people. The distance between the two, between fantasy and reality, is the distance between Indian and Native. It is also the distance non-Native Canadians must travel before we can come to terms with the Imaginary Indian, which means coming to terms with ourselves as North Americans.⁶²⁷

Jennifer Reid tackles the Canadian imaginary through an analysis of Louis Riel’s influence on the modern Canadian state.⁶²⁸ She argues that the different ways in which the myths of Riel are mobilized by various peoples in Canada point to “the profound inadequacy of the concepts of

⁶²⁴ Ibid.

⁶²⁵ Pierre Trudeau, as cited in Ibid., 238

⁶²⁶ Ibid.

⁶²⁷ Ibid., 239.

⁶²⁸ Reid, *Louis Riel and the creation of modern Canada* .

nationalism and the *nation* in the Canadian situation.”⁶²⁹ Various characterizations of Riel as hero, martyr, traitor, embodiment of western resistance against the federal government and forerunner to western populist politics, have been deployed in a variety of agendas, forcing recognition of the plurality and dichotomies at the heart of Canada - French/English, east/west, Aboriginal/non-Aboriginal - and the impossibility of a national narrative based on unity. Positing Canada as a *nation-state* instead of a *confederation* based on hybridity works to conceal the intricately entangled relationships of colonialism and the violence - physical, structural, and symbolic - implicated in the creation of the country. Despite Canada’s professed foundations of peace, order, and good government, its history is riddled with sub-nationalisms, ethnic oppression, separatism, and uprisings. Reid says that our creation myth should explicitly acknowledge civil unrest, avoid the aesthetic pretence that Canada was founded on multiculturalism, and acknowledge that some of Canada’s constituent parts do indeed have special status, rather than defining the Canadian state according to national discourses based on prevailing ethnic or ideological uniformities.

Erin Manning’s analysis of Canadian identity⁶³⁰ similarly highlights:

a violent discourse of national exclusion that is masked in the myth of Canadians as a harmless, open, and generous people. For despite that the discourse of generosity and benevolence prevails within the Canadian national imagination, the categories of ‘us’ and ‘them’ remains standard practice.⁶³¹

She points out the myth that Canada is a nation of immigrants “whose separateness can be mapped onto their places of origin.”⁶³² With Reid, Manning calls attention to exclusionary systems of governance fuelling the disqualification of those who renounce or do not comprehend the nation’s semantics. Qualified bodies accept Canadian sovereignty in its linguistic, cultural, and political personifications and its claims to liberty, harmony, and equality. To me, Manning’s implied claim to ‘belonging’ on behalf of marginalized people such as Six Nations seems like mostly unwanted assistance. But her point about exclusionary cultural and political texts stands.

⁶²⁹ Ibid., 5.

⁶³⁰ Manning, *Ephemeral territories*.

⁶³¹ Ibid., xvii.

⁶³² Ibid., 61.

Most Canadians probably do not realize that many Aboriginal people and nations view themselves as distinct: Canada's identity club is rejecting imaginary membership applications.

At various points in history, as Reid pointed out, the cracks in Canada's carefully constructed identity have become more apparent. Maria de La Salette Correia shows how the contradictions made apparent in the 1990 Oka, Québec crisis show Oka to be a "microcosm of the questioning of western master-narratives, the blurring of lines *between* cultures and the divisions *within* cultures that are hallmarks of the post modern age."⁶³³ I believe we may extend this claim to Caledonia as well. First Nations decolonization movements work against Canadian master-narratives about the tolerance inherent in Peace, Order, and Good Government: orderly development of British Canada actually required standardization and homogeneity. Mohawk protesters at Oka were well aware that the Haudenosaunee Confederacy possesses what may be the oldest and least hierarchical constitution in the world, and demonstrated "a sophisticated awareness, a self-conscious perception of their own place, stereotypically or otherwise constructed in time and space"⁶³⁴ in prescient comments such as "if the Mohawks hadn't taken a stand [...] they would have been just 'wooden-cigar-store Indians.'"⁶³⁵ Carefully crafting post-modern identities and strategies, the Mohawk warrior

borrowed what he wanted from the image and arsenal of the international soldier, he challenged a province possessed of a national identity to accept his own national identity, he called himself Lasagna or Spudwrench or Noriega, and he spoke of the Longhouse and the Great Law of Peace. In other words, he demonstrated an amazing ability to understand and articulate within and between cultures.⁶³⁶

Caledonia mirrors Oka in many ways. The government of Québec sent in the police, and Québécois denied the racist label, even as many burnt effigies, hurled rocks, and roared *maudit sauvages* (though in both places there were supporters of the protesters as well). Meanwhile, the Prime Minister went on vacation and the federal government, still recovering from the Meech Lake fiasco, played hot potato with Québec over jurisdictional responsibility. "On the

⁶³³ de la Salette Correia, "Peace, order, and good government," 75.

⁶³⁴ Ibid., 74.

⁶³⁵ York and Pindera, *People of the Pines*, 430, as cited in de la Salette Correia, 74.

⁶³⁶ de la Salette Correia, "Peace, order, and good government," 75.

other side,” says Correia, “the Mohawk rejected the characterization of the conflict as one of Law and Order and refused to get involved in a language war; instead, they spoke of nationhood, of the Great Law of Peace and the Covenant Chain and the inherent right to self-determination.”⁶³⁷ Perhaps one of the best-known images of the Oka dispute is a photograph depicting a Canadian military private and a warrior. As it happened, the warrior was not Mohawk or even Iroquois, but Ojibway. The private, an icon of law and order, turned out to be a cocaine user later arrested for a hit and run accident and discharged from the military. Correia’s deconstruction of the complex identities mobilized in this struggle points out both the clarities and the confusions inherent in Canadian identities structured in opposition to Aboriginality and through claims to ‘rule of law.’

As the *Royal Commission on Aboriginal Peoples* explains, the relationships that developed between Aboriginal and non-Aboriginal people over the past 400 years were based on false premises: Canada was not unoccupied, and its inhabitants were not wild, untutored, and ignorant. “A country cannot be built on a living lie.”⁶³⁸ Despite Canadian roles in articulating and ratifying international human rights standards, the historical process by which Canada was formed involved a renunciation of the rights of its first peoples to self-determination. The law directing the division of authority related to Canada’s First Nations accepts without question legislative power over them: federal jurisdiction is derived from s. 91(24) of the *Constitution Act, 1867*, which has been interpreted by the judiciary to authorize Parliament to single out native people and treat them differently than non-native people under some laws, and the same under others.⁶³⁹ And provincial laws applying to land ownership and hunting and fishing regulations discriminate against First Nations cultural and economic practices and laws while appearing impartial. Western liberalism’s emphasis on individual rights and rationalism originated in the social contract’s purpose of ensuring security for (property) rights as humanity left the state of nature,⁶⁴⁰ but rights have been denied First Nations in crucial ways, shaping Canadian spaces which exclude Aboriginal priorities, practices, and histories. In Caledonia, we saw that this discursive emphasis on the rights of the property owner had tremendous salience with the public

⁶³⁷ Ibid., 71.

⁶³⁸ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, vol. 2.

⁶³⁹ Macklem, “First Nations self-government and the borders of the Canadian legal imagination,” 423.

⁶⁴⁰ Bramsted and Melhuish, *Western liberalism*.

and leaders alike – again staking claims to the rights to shape space according to one system of law’s conceptions of possession and justice.

Michael Lee Ross suggests that nothing less than Canada’s ‘national soul’ is at stake in this topography, which has sedimented uneven rights into place. Canadians often declare a history relatively free of conflict with First Nations, indicating, “how Canadians look upon their historical and current relationship with First Nations peoples and how they envision their future relationship are integral parts of their national self-image.”⁶⁴¹ Canada must deal with the inconsistency between its congratulatory self-image and the attacks it has made on First Nations lands and rights. John Borrows also argues that the legitimacy of Canadian claims to sovereignty can and should be challenged if Canada is to abide by its cherished principles as ‘a free and democratic society.’⁶⁴² Fundamental constitutional principles belie Canada’s claim to underlying title, and democratic principles of consultation and consent, followed in the cases of all other governments entering Confederation, were ignored in the inclusion of First Nations into the Dominion’s federal structures.⁶⁴³ Current attempts to negotiate the swirling waters of identity and relationship with Aboriginal peoples are confounded by Canadian citizens’ uncomfortable peripheral awareness of the injustice lying at the core of their nation’s history.⁶⁴⁴ As Asha Varadharajan puts it,

The contradiction between the ironic self-deprecation with which Canada represents itself on the outside and the demonstrable power differentials in the materiality of its existence on the inside only serves to cloud the issue further. In short, the grinning pluralism that the notion of harmonious diversity conjures up precludes the possibility of genuine difference – indeed, of dissidence.⁶⁴⁵

He calls for a truly multicultural space that acknowledges and embraces controversy over meanings, identities, and values in order to properly recognize the importance and complexity of struggles for self-determination and equity. If a discursive space according to Varadharajan’s vision had been imagined in the negotiations over Douglas Creek Estates, rather than one

⁶⁴¹ Ross, *First Nations sacred sites in Canada’s courts*, 177-178.

⁶⁴² Borrows, *Recovering Canada*, 114.

⁶⁴³ *Ibid.*, 117.

⁶⁴⁴ Woolford, *Between justice and certainty*.

⁶⁴⁵ Varadharajan, “The “repressive tolerance” of cultural peripheries,” 144.

delineated by Canadian versions of history and relationship, we might have seen a different outcome. The discomfort in this nether-region of 'tolerance' of Aboriginal peoples is potently conveyed by Kristina Fagan, who tells how her non-Native students reacted enthusiastically to oral narratives emphasizing the importance of homelands to Aboriginal people, but negatively to a more overtly political piece arguing that First Nations should not be considered citizens of Canada. Both texts are deeply political expressions of Aboriginal national tradition, but the students viewed only the first narratives as noteworthy and acceptable cultural artifacts. The rejection of the political writing mirrors a widespread tendency in Canadian society to separate Aboriginal culture from Aboriginal politics. I can attest to this inclination in my original research proposal, in which I hypothesized (perhaps not explicitly) that the dispute in Caledonia was about clashing 'cultures' and 'values.' I understood the term 'culture' in a way that ignored its shifty and deeply political implications. While many Canadians are enthusiastic about Aboriginal culture, the idea of continuing title to land is profoundly disturbing to spatial imaginaries such as those along the Grand River, and we tend to avoid big topics such as governance and justice.

Theresa McCarthy dissects some of these sticky issues of (racist) essentialism and representation.⁶⁴⁶ Though Aboriginal self-representers are regularly accused of using 'ideological filters' in their portrayals of Aboriginal identity, the dominant culture also ideologically interprets, re-presents, distorts, and dismisses certain issues and realities. McCarthy quotes Sherene Razack on "the perils of essentialism" which mean that emphasis on cultural diversity can descend, "in a multicultural spiral, to a superficial reading of differences that makes power relations invisible and keeps dominant cultural norms in place,"⁶⁴⁷ making it difficult to deconstruct "the Canadian nationalist ideology of tolerance."⁶⁴⁸ It is precisely these difficulties which call for discourse analysis methodologies designed to uncover hidden claims to universality and supremacy.

Canadian imaginaries of peace, order, and good government have shaped more than delusional identities of raceless tolerance. Orderly society also calls for Canadian economic space to be shaped by 'progressive' development, the engine of national society. We saw in Chapter 1 that

⁶⁴⁶ McCarthy, "It isn't easy."

⁶⁴⁷ Razack, *Looking white people in the eye*, 9, as cited in McCarthy, 45

⁶⁴⁸ McCarthy, "It isn't easy," 40.

the historical prioritization of squatters' rights over those of Six Nations was rooted in British colonial economic expansion and the rejection of Aboriginal ways of managing the land. The topography of the Grand River has been deeply structured by these demands: the requirements of trade mandated the building of highways, dams, mills, and towns through the acquisition of Six Nations land, pushing the Haudenosaunee onto a 'reserve' while land all around was built up and developed. Today, any hints that development in the Haldimand Tract area should be halted until Six Nations' land grievances are resolved are met with disbelief and anger. Canadian representatives in the Caledonia dispute are energized by anxiousness about economic and business interests, themes surfacing repeatedly in their narratives about Douglas Creek Estates.

In economist Ozay Mehmet's interrogation of Eurocentric profit-driven economies,⁶⁴⁹ he argues that development theories rest on strong nationalistic premises substituting assumptions for the realities of race, gender, and environment. Economics, he says, is not a description of reality but a value-laden discourse like any other. Western capitalism takes for granted the paradigm of 'positive' rather than welfare or normative economics and prioritizes economic growth in the form of capital accumulation. As a culture-specific by-product of the Protestant work ethic and rationalist post-Newtonian Europe, which fostered the prediction and manipulation of nature, the Western capitalist experience has ignored non-Western Others. Mehmet delineates an economics methodology grounded in Western empiricism portraying human progress "not as holistic, but as linear, male, and a deterministic replication of Western stages and taxonomy, using reductionism in time and space."⁶⁵⁰ This logic requires that everything be evaluated according to European norms, relegating non-European economies to the domain of failure or, perhaps more generously, to that of potential transformation. Moral responsibility for the failure of Western economic prescriptions is declined in favour of another prescriptive paradigm.

Arturo Escobar similarly argues that development and colonialism are intertwined global projects, critiquing economics as a "foundational structure of modernity."⁶⁵¹ To him, the Third World is an outcome of Western paradigms and knowledge systems in which "development had achieved

⁶⁴⁹ Mehmet, *Westernizing the Third World* .

⁶⁵⁰ Ibid., 11.

⁶⁵¹ Escobar, *Encountering development* , vii.

the status of a certainty in the social imaginary.”⁶⁵² Non-Western epistemologies are disqualified or marginalized, and subject peoples are created in imaginative geographies on the basis of racial origin. In the history of cultures, this discourse is peculiar, treating the economy as a neutral production system even though it “is not only, or even principally, a material entity. It is above all a cultural production, a way of producing human subjects and social orders of a certain kind.”⁶⁵³ As such, power and control are critical: ‘the economy’ and development policies demand that bodies and populations are regulated with the movements of capital. Social classes are enforced and “man” is restructured as a normalized subject: *Homo oeconomicus* in a disciplinary society.⁶⁵⁴

Prioritizations of ‘development’ are so evident in the shaping of Grand River landscapes that they hardly require explication. Canadian development imperatives meant that landscapes were progressively shaped for settler priorities and progress, whether or not people were there.⁶⁵⁵ The land was mapped in a new way: while the Haudenosaunee, for instance, defined social relationships by the land, the colonizers mapped resources.⁶⁵⁶ The Royal Proclamation was viewed as an impediment to settlement, development, and Indian assimilation. Discourses contour topographies: accompanying these paradigms were administrative re-designations of Aboriginal territory as Crown land and Aboriginal nations as ‘bands,’ both denigrating Aboriginal autonomy in favour of Canadian sovereignty, assumed to extinguish Aboriginal title by managing and disposing of public lands and resources. Ironically, when Six Nations asserts its sovereignty today by similar means (that is, *exercising* in addition to stating it), they are dismissed.

Canadian societal discourses masked motives of economic expansion behind prevailing settler ideologies of social Darwinism and deeply embedded notions of progress. These views justified the relegation of native people to the category of physical impediments to white settlement by pointing out their savagery, cultural inadequacy, and moral inferiority.⁶⁵⁷ Rhetorics of ‘settlement’ hinting at the productive use of what were otherwise viewed as wastelands masked

⁶⁵² Ibid., 5.

⁶⁵³ Mehmet, *Westernizing the Third World*, 59.

⁶⁵⁴ Ibid., 60.

⁶⁵⁵ Usher, “Environment, race, and nation reconsidered.”

⁶⁵⁶ Doxtator, “Inclusive and exclusive perceptions of difference: Native and Euro-based concepts of time, history, and change,” 43.

⁶⁵⁷ Usher, Tough, and Galois, “Reclaiming the land: aboriginal title, treaty rights and land claims in Canada,” 121.

the overarching goals of obtaining lands and resources in a process that became not only genocidal, but eventually 'ecocidal' as well.⁶⁵⁸ The constitutional principles on which Canada was founded, ostensibly recognizing the supremacy of God and the rule of law, disguise the economic and political goals directing Canada, papering over the collective rights and responsibilities esteemed by Aboriginal societies in favour of European concepts of individual entitlements. The entire project of cultural-economic hegemony, then, is hidden by the rhetoric of 'rights'; at the same time, native law and cultural forces are left out of the debate.⁶⁵⁹ And the use of neo-liberal discourses tying citizenship to land through economic 'logics' continues apace. David Rossiter and Patricia Wood contend that the British Columbia government's justification of its 2002 referendum on Native land claims was positioned atop an erasure of the historical and geographic realities of Native-newcomer encounters, focusing instead on a call for First Nations to participate in market economies. They conclude, "the politics surrounding the treaty process must be understood as a contest over the terms of Aboriginal citizenship and not merely as a conflict over the allotment of land and resources."⁶⁶⁰

Laura Hall⁶⁶¹ criticizes dominant societies' commodification practices, which take for granted that Aboriginal economies are naturally doomed to extinction, paradoxically teaching that Indigenous people are both superior and disposable, relegated to 'otherness' and excluded from decision-making. Pressures on Haudenosaunee economies were imposed by colonialism and far from 'natural.' To decolonize economic philosophies, she says, we must target the unshakeable belief in innovation and modernizing development for the betterment of all humanity, which in fact serves to undo the economies of all but the dominant culture. In this way, traditional hunting and fishing based economies were attacked by various laws, but the replacement economy – farming – was also made difficult for people such as the Haudenosaunee of the Grand River through more legislation, as we saw in chapter 1.

Sidney Haring weaves together racialized colonial and Canadian imaginaries and economic policies as they apply to the Six Nations story: a topography formed by hypocrisy and deceit. The

⁶⁵⁸ Churchill, *Struggle for the land* .

⁶⁵⁹ Turpel, "Aboriginal peoples and the Canadian Charter: interpretive monopolies, cultural differences."

⁶⁶⁰ Rossiter and Wood, "Fantastic topographies," 352.

⁶⁶¹ Hall, "Decolonizing development."

reasoning on which colonizers relied for initial dispossession of land and on which Canada still relies for continuing legitimacy include rationalizations such as the ‘weight of history,’ which provides “a legal basis for government actions done in violation of law – so long as they were done long ago.”⁶⁶² Self-identifying language of liberal benevolence excused structural violence by positing separation from American frontier brutality. Colonial officials in London, in fact, were more likely to be genuinely concerned with Indigenous rights than were on-the-ground authorities directly affected by the conflict between Indigenous and settler economic interests. Then, as now in Caledonia and Brantford, it is easier to be generous from a distance. The land and commerce priorities of British law and order demanded an approach of “punishing violators and providing a framework for organizing land and resources so that development could go forward.”⁶⁶³ Years later, the reverberations of these policies, and the legal disorder associated with them, continue to be felt. Six Nations’ continual assertions of sovereignty and land rights were set in opposition to the settlers (many squatters, some not) whose (racialized) political and economic power “influenced the government to refuse to enforce its own land laws protecting the Six Nations against settler interests.”⁶⁶⁴ Despite identifying with Britain’s love for law and order, the colonial regime ignored its own directives. Harring concludes that the dispossession of the Six Nations from most of their territory was underlay partly by racism and ethnocentrism,

forces at work in the expansion of the British empire and the formation of colonial settler states. On the simplest level, settlers believed that they could make productive use of lands that Indians wasted. But that may cast their dispossession of Indians in too neutral a light. The idea that Six nations’ laziness and chicanery in land deals were responsible for the squatters is rooted in mythology and in misrepresentation of the actions of the two thousand Indians living there. Most basic to this was the idea that the Indians were ‘improvident’, relying on government annuities for survival because they had an aversion to labour and this encouraged their natural indolence and improvidence.⁶⁶⁵

These payments, made in lieu of surrendered land, amounted to only about 4 pounds per resident of Six Nations in 1844, hardly adequate to sustain profligacy. We can hear the echoes of this discourse in Marie Trainer’s assertions that Caledonians cannot simply sit by and wait for

⁶⁶² Harring, *White man's law*, 7.

⁶⁶³ *Ibid.*, 34.

⁶⁶⁴ *Ibid.*, 35.

⁶⁶⁵ *Ibid.*, 54.

cheques to arrive, as Six Nations protesters apparently can. Racism was further embedded in early colonial policies linking land and polity in, for instance, the disqualification of John (son of Joseph) Brant's election to the newly created Haldimand County riding in 1832, on the grounds that most of his votes were cast by unenfranchised non-landowners, including squatters. Not only was the franchise denied to those without property (a clear example of the prioritization of capitalist prerogatives), the policy was doubly exclusionary to those from Six Nations, since their land was ostensibly not properly owned, but 'held in trust' by the government. Canada's legitimacy and self-image as a country, after all, depended on its assertion of sovereignty over Indian people and lands. And even though Six Nations had authority under the common law as landholders to remove squatters – trespassers - by force, "such action in the context of a hostile legal system might have constituted assault and been punished under colonial law."⁶⁶⁶ Again, the racism inherent in the legal system prevented assertion of land rights and sovereignty; the British and Canadian authorities, who had both the muscle and the legal mandate to eject the squatters, did not do so. Instead, "by the 1820s Canadian authorities were permitting squatter occupation of the Grand River lands as one element of a strategy to force the Six Nations to cede their lands to the Crown, in turn promoting a policy of forced assimilation."⁶⁶⁷

In this section, I set out to explore aspects of the Canadian imaginary that emerged to shape discursive and geographical spaces at Caledonia. The discursive strategies and themes elaborated in Chapter 2 – themes emphasizing economy, law, universal 'normalcy,' jurisdiction over and differentiation from Six Nations, raceless 'multiculturalism' - are clearly connected to overarching Canadian cultural imaginaries. The Canadian identity works through simultaneous denial of and opposition to the Nations who played such fundamental roles in the shaping of this country, and Canadian development discourses evidenced in Caledonia exclude Six Nations' priorities and rights from the physical and political landscape. Harring's scrutiny of the Six Nations land rights case provides a clear illustration of so many aspects of Canadian identity: 'legally' premised in opposition to Aboriginal peoples, knitting land, law, economic priorities, and politics thoroughly together to shape the land and the nation, justifying its (in)actions with discursive moves emphasizing individual rights, and claiming that the relative lack of corporeal

⁶⁶⁶ Ibid., 60.

⁶⁶⁷ Ibid., 61.

violence provided proof that Canada is a peaceful state characterized by good governance, law, and order. The spaces shaped by government representatives in the conflict over land in Caledonia rely on these same Canadian narratives for legitimacy and justification. For instance, the police action at Douglas Creek Estates makes sense in light of the discursive strategies which classify the protesters as deviant, different, and unacceptable. The *Places to Grow* legislation may erase Six Nations from the map and ignore its priorities because the economy comes first, and because Six Nations' own visions for economy and development do not count in the first place. A discursive analysis of the dispute at Caledonia connects the dots between discourses, power-laden imaginaries, and physical landscapes.

Negotiating topographies of 'truth'

If identity and history are indissociably joined, and the Canadian imaginary is dogged by contradiction and circumscribed in opposition to perceived and/or actual Aboriginal identities, the stories that are told by and about Canada and Six Nations will necessarily clash. Access to legitimated discursive space is held principally by mainstream Canada, as is the recognized and accepted authority to prescribe the parameters and frames of histories and negotiations. But just as current ideas of 'nation' are not given but must be constantly re-negotiated, and the right to own and manage the land itself is disputed, so the prerogative to control spaces of accepted truth and history does not go uncontested. As we saw throughout Chapter 2, Six Nations representatives in the negotiations at Caledonia assert that their ways of seeing and understanding history are equally valid to those of Canada, contest Canadian versions of the treaty relationship between the Haudenosaunee and the Crown, demand recognition of their own systems of law, and call for acknowledgement of their visions for justice, compensation, and ways of managing land. This dispute over land - a tangible space - is also about claims to truth and who gets to shape it. The topographies of these contests reach far beyond Caledonia, and my analysis of the discourses expressed there clearly links to the insights and conclusions of scholars and philosophers studying history, truth, and the rights to define it.

As we saw in Correia's study of the incongruities at Oka, rights to define Aboriginal identity and history are being deliberately challenged. Rewritings of old, familiar stories are ongoing. Daniel

Clayton⁶⁶⁸ compared Captain Cook's account of his 1778 arrival at Nootka Sound in British Columbia to reports from ethnographers, sailors, and Native peoples. While Cook depicted encounters marked by order, peace, and mutual understanding for future trading, others talked mainly about fear, miscommunication, and violence. Cook was clearly impacted by his self-image as a representative of European civilization and agendas in non-European space. These 'common-sense' accounts "raise questions about how and why certain representations are taken to be factual and true, while others get buried, ignored, or dismissed."⁶⁶⁹

Similarly, scholars scrutinizing Canadian-First Nations treaties have noted that while Canada holds fast to agreements in which vast swathes of land were apparently surrendered in exchange for tiny reserves – such as the 1841 purported general surrender along the Grand River - the terms of these treaties are hotly contested. While Aboriginal people viewed treaties as opportunities to shape their economic futures by securing rights to traditional livelihoods and to continue to manage lands and resources, Canada used the treaty process to exercise power through the Indian Act and the Department of Indian Affairs.⁶⁷⁰ The government "employed a variety of tactics to pressure Native negotiators into accepting the government's terms, such as threats to withdraw the offer to treat, warnings of the consequences of white settlement without a treaty, and attempts to undermine the role of the chiefs and exploit differences among the bands."⁶⁷¹ Certainly the latter two strategies were used at Six Nations, as we have seen in Chapter 2. Interpretation problems are due to linguistic differences as well as discrepancies between oral and written testimonies: often, only brief summaries of provisions were listed in the written treaty, so that contemporary Native understandings regularly do not correspond to 'official' versions.⁶⁷² Since treaties had little to do with actual areas of traditional lands and "a lot to do with the needs of settlement and the emerging spatial configuration of political control,"⁶⁷³ this is not particularly surprising. Canadian law also does not view treaties as international agreements between sovereign peoples, despite assertions to the contrary by nations such as the

⁶⁶⁸ Clayton, "Captain Cook and the spaces of contact at 'Nootka Sound'."

⁶⁶⁹ Ibid., 120.

⁶⁷⁰ Usher, "Environment, race, and nation reconsidered"; Usher, Tough, and Galois, "Reclaiming the land: aboriginal title, treaty rights and land claims in Canada."

⁶⁷¹ Usher, Tough, and Galois, "Reclaiming the land: aboriginal title, treaty rights and land claims in Canada," 117.

⁶⁷² Ibid.

⁶⁷³ Usher, "Environment, race, and nation reconsidered," 368.

Haudenosaunee. This is rationalized either by the argument that Aboriginal peoples (then and/or now) were not civilized and/or organized enough to qualify as sovereign, or that they had 'lost' their sovereignty through some process "such as the good providence of being 'discovered.'"⁶⁷⁴

Many factors beyond written texts of treaties must be considered, because they represent only the Government of Canada's understandings. Equally, explains Sharon Venne, when Elders talk about history, they refer only to the jurisdiction and political rights of 'our own people' and the desire to have places to live without interference by settlers. Reserve lands are not seen as "lands given to the Indigenous peoples by the Crown or the government,"⁶⁷⁵ and treaties were often viewed as sharing and loan agreements rather than sales. Hypocrisy is rife in refusals to acknowledge oral history and Aboriginal perspectives: "In the Eurocentric academic community, history is validated if two separate sources confirm the same information. The information passed on from the Elders has been validated over and over again."⁶⁷⁶ Geographic accounts of pre-colonial, colonial, and 'post-colonial' land rights rely overwhelmingly on European knowledge frameworks, leaving little room for Aboriginal perspectives except as reactive respondents.⁶⁷⁷ Dale Turner echoes the call for just incorporation of Aboriginal perspectives: "The Canadian governments have been able to impose their interpretation of the treaties on Aboriginal peoples at least since the time of confederation."⁶⁷⁸ As demonstrated in Chapter 2, these processes still occur through daily discursive practices of categorization and dismissal, evidenced, for instance, in the negotiations over Douglas Creek Estates.

Linda Tuhiwai Smith mounts an expansive critique of the way history is claimed by the colonizers.⁶⁷⁹ Among other criticisms, she red-flags the ideas that a universal history exists, that facts are innocent and speak for themselves - historians simply find them and put them together - and that history is about progress from primitivism to civilization and rationality. She notes that

⁶⁷⁴ Turpel, "Aboriginal peoples and the Canadian Charter: interpretive monopolies, cultural differences," 57.

⁶⁷⁵ Venne, "Understanding Treaty 6," 197.

⁶⁷⁶ Ibid., 205.

⁶⁷⁷ Peters, "Aboriginal people and Canadian geography."

⁶⁷⁸ Turner, "From Valladolid to Ottawa," 64.

⁶⁷⁹ Smith, *Decolonizing methodologies*.

Indigenous attempts to reclaim land, language, knowledge and sovereignty have usually involved contested accounts of the past by colonizers and colonized. These have occurred in the courts, before various commissions, tribunals and official enquiries, in the media, in Parliament, in bars and on talkback radio. In these situations contested histories do not exist in the same cultural framework as they do when tribal or clan histories, for example, are being debated within the indigenous community itself. They are not simply struggles over 'facts' and 'truth'; the rules by which these struggles take place are never clear (other than that we as the indigenous community know they are going to be stacked against us); and we are not the final arbiters of what really counts as the truth.⁶⁸⁰

She warns against the commonly held Indigenous belief (expressed by many at Six Nations) that once the 'truth' is revealed, it will prove that past events were wrong or illegal, forcing the courts and the government to make reparations.

We believe that history is also about justice, that understanding history will enlighten our decisions about the future. *Wrong*. History is also about power. In fact, history is mostly about power. It is the story of the powerful and how they became powerful, and then how they use their power to keep them in positions in which they can continue to dominate others. It is because of this relationship with power that we have been excluded, marginalized, and 'Othered'. In this sense history is not important for indigenous peoples because a thousand accounts of the 'truth' will not alter the 'fact' that indigenous peoples are still marginal and do not possess the power to transform history into justice"⁶⁸¹

Her mistrust of 'facts' and 'the truth' reverberates in the words of Jake Thomas. During a public recitation of the Great Law of Peace at Six Nations, he explained, "I don't believe in books. Maybe some, but not all. I don't want to get carried away either in the books, cause I know it's not true. Cause it is only one man that wrote that."⁶⁸² Haudenosaunee academic Deborah Doxtator clarifies similar issues, pointing out that

Native perceptions of history are not compatible with Euro-based ideas of history and change. Although both Native and non-Native historians have made attempts since the early nineteenth century to write histories that integrate Native and non-Native ideas of time, place, and history, the history of Canada remains firmly based in European, not indigenous, ways of seeing the past. By this I mean that although both Native

⁶⁸⁰ Ibid., 33.

⁶⁸¹ Ibid., 34

⁶⁸² Jake Thomas, 1996, as cited in McCarthy, "It isn't easy," 177

perspectives and voices have been incorporated, the history of Canada remains firmly based in European deeds and actions.⁶⁸³

Native people, she says, are viewed as having 'myth' but not history, their knowledge systems tainted with normative and spiritual elements rendering them superstition rather than knowledge. Indeed, Haudenosaunee knowledge prioritizes neither the partition of 'past' from 'present,' viewing change as accumulative, nor the separation of what Westerners view as different forms of knowledge. European-based histories are equally informed by cultural myths:

Although Euro-based concepts of history can accept the idea that history is rewritten over time and that perspectives of the past change, it cannot accept the degree of temporal continuity and unity underlying Native concepts of history. Just as categories of what is 'myth' and what is empirically determined 'historical observation' must appear separate and distinct, so must the perspectives of groups of people separated by certain predetermined blocks of time.⁶⁸⁴

Denigration of Indigenous record keeping manifested itself in, for instance, the failure by seventeenth century record keepers to recognize that wampum belts and pictographs comprised substantial recording systems with complicated histories. Oral histories continue to be largely misrecognized today, as western historians try to distil from them information that fits more closely with what they consider knowledge, in the process "distort[ing] the information that these narratives contain."⁶⁸⁵

The combination of faith in Canadian prerogatives and the refusal to acknowledge indigenous perspectives has profound implications for negotiations of various kinds between Aboriginal nations and Canadian governments. Andrew Woolford's study of the British Columbia Treaty Process⁶⁸⁶ has much to say that is relevant to the negotiations at Grand River, spelling out a multiplicity of visions of 'justice' and 'certainty' elucidated by the parties involved, which incorporate many of the discursive themes elaborated in Chapter 2. To non-Aboriginal governments, certainty requires that conflicts between Aboriginal and Crown title must be

⁶⁸³ Doxtator, "Inclusive and exclusive perceptions of difference: Native and Euro-based concepts of time, history, and change," 34.

⁶⁸⁴ Ibid., 36.

⁶⁸⁵ Ibid., 41.

⁶⁸⁶ Woolford, *Between justice and certainty*.

resolved to achieve clarity of land ownership and jurisdiction. They predominantly focus on 'creating future relationships,' thereby doing symbolic violence on First Nations by ignoring colonial realities and by using power to define the negotiating context, prioritizing economic and business interests over a serious reckoning with the past. 'Certainty' discourses also legitimate the socio-economic logics of mainstream Canada, axiomatically linking it with (economic) well-being. However, Woolford points out, certainty is dependent on the perception by all parties that justice has been achieved. Though some First Nations or members of First Nations may view government priorities as being in line with their own goals, others provide alternate definitions, speaking of compensation in terms of morality and justice, as fair recompense for harm done and a necessary element of public acknowledgement. Temporal objectives are another source of tension: are treaties intended to repair the past or shape new futures? For First Nations, just futures lie clearly *through* acknowledgements of past wrongs, while many non-Aboriginal parties believe that discussions of 'history' long-passed simply bog negotiations down. Finally, the notion of 'extinguishment' of rights that seems automatically included in government priorities for certainty is problematic.⁶⁸⁷ Asch and Zlotkin posit that federal insistence on extinguishment clauses originates in the belief that Canada holds underlying ownership and jurisdiction to the land. Though Canadian courts have acknowledged difficulties in accommodating Aboriginal understandings of Aboriginal rights and title, even the idea that these are 'undefined' and require judicial interpretation to make them clear is a product of underlying assumptions about the relationship of Aboriginal rights and title to the Canadian constitutional framework.⁶⁸⁸

Of course, the motivations of Aboriginal and non-Aboriginal parties in disputes over land and truth are vastly different. As Michael Coyle wrote in a report for the Ipperwash Inquiry,

In a situation where one party is a defendant, has access to much greater financial and legal resources than the other party, and views the costs of not settling as largely intangible, there will be a reduced motivation to settle the claim quickly. (There will also be little incentive for that party to submit to third-party views on disputes over the law.) This will be true at the institutional level regardless of the goodwill and dedication of the individuals involved. Indeed, in its submission on land claims to the Indian Commission of

⁶⁸⁷ Harris, *Making native space* ; Coyle, *Addressing Aboriginal land and treaty rights*; Woolford, *Between justice and certainty*; Asch and Zlotkin, "Affirming Aboriginal Title."

⁶⁸⁸ Asch and Zlotkin, "Affirming Aboriginal Title," 211-212.

Ontario, the province acknowledged that the prospect of deferring settlements creates a disincentive for governments to settle land claims in a timely manner.⁶⁸⁹

Though First Nations often turn to legal strategies in lodging claims - their assertions have bases in both Canadian and Aboriginal law - Woolford points out that this strategy can also work to reaffirm the logic of non-Aboriginal treaty visions which eschew moral reasoning and focus on legal or political logics. Dale Turner⁶⁹⁰ makes an impassioned plea for Indigenous intellectuals to do exactly that: to engage the political and legal discourses of the state as 'word warriors' and indigenous philosophers in order to convince the dominant culture of the legitimacy of their assertions of sovereignty, rights, and nationhood. He believes that it is crucial to articulate and stand up for uniquely Indigenous ways of knowing, seeing the world, and reforming Aboriginal-mainstream relationships. Because it is predominantly non-Aboriginal judges and politicians who have the ultimate power to protect and enforce aboriginal rights, he says, rights must be justified in ways that these people can recognize and understand.

While Turner explicates the task of overcoming competing histories and dictated terms of negotiations, other Aboriginal philosophers see things differently. Tom Deer, a Six Nations knowledge holder, responds to the spectre of conflict over representational ownership and competition over knowledge with these candid words: "It's ok that we aren't really interested in the same questions anyways."⁶⁹¹ In my view, this statement effortlessly re-contextualizes the rivalry over stories by re-framing the importance of 'historical knowledge' to the domain of epistemology rather than that of ontology; that is, because Indigenous and Canadian *ways of knowing* are fundamentally different, the 'facts' themselves should not even really 'compete' on the same playing field. But because Canada is always the home team in 'legal' disputes, Aboriginal epistemologies are discarded before the game even starts.

In Chapter 2, we saw that the contests outlined in the preceding paragraphs have played crucial roles in the fight to shape space along the Grand River. The contest over legitimate discursive space – the right to describe history and have one's 'truth' accepted – is immeasurably critical in

⁶⁸⁹ Coyle, *Addressing Aboriginal land and treaty rights*, 55.

⁶⁹⁰ Turner, *This is not a peace pipe*.

⁶⁹¹ Tom Deer, as cited in McCarthy, "It isn't easy," 69

this dispute over land. Both Canada and Six Nations stake claims to more than physical territory at Caledonia; each seeks to contour the parameters of the negotiations (and their outcomes, which are about rights to the shape the landscape itself) by presenting its ontologies and epistemologies as valid ways of representing histories, treaties, myths, and possible futures.

The Haudenosaunee and land: spaces of identity and sovereignty

In the first section of this chapter, I introduced the ways in which nation, polity, and land are tied in tight knots, and how the rights to shape geographic landscapes are entwined with privileges of political space. In the next segment, I explored Canadian cultural imaginaries and values, concluding that racialized distinctions and economic ideologies have worked to exclude First Nations from Canadian spaces (both figurative and literal) purportedly marked by peace, order, and good government. Next, the conflict between Canada and First Nations over rights to ‘truth’ and legitimacy was discussed, keeping in mind that this struggle for moral and epistemological space is inseparable from more tangible conflicts over the rights to shape actual terrain.

In this fourth section, I delve into Haudenosaunee identities explicated in this dispute over land. What beliefs and values prompt Six Nations and other Aboriginal nations in space-shaping struggles such as this one? How is Six Nations shaping its own political community, and what commonalities exist with broader pan-Aboriginal movements? What tools are used in these debates, and what claims are staked? Though Canada’s uneasy past has meant that part of its self-image was defined in juxtaposition to Aboriginality, the reality of protest in Caledonia and elsewhere is that dissenting parties – here, the Haudenosaunee - are often obliged to enunciate identity in a much more oppositional manner. The following paragraphs, then, will articulate aspects of Six Nations (and broader Aboriginal⁶⁹²) philosophy, identity, and activism salient to the unfolding of this conflict in Caledonia, arguing that while the central importance of land has given overall structure to the reclamation, Six Nations has also contended with identities imposed from

⁶⁹² Although the term ‘Aboriginal’ is problematic in that it suppresses the reality of the very different national histories and beliefs of the First Nations living within present-day Canadian borders, certain elements of worldviews surface again and again; moreover, pan-Aboriginal organizations and identities have developed both strategically and as part of the hybridity of modern life.

outside, and accessed and re-presented pan-Aboriginal and broader societal discourses in this struggle over the right to mould geographical and political spaces *as sovereign people*.

The most prominent feature of Six Nations' expressed identity in this dispute is the importance of land. Their discursive strategies continually emphasize, as outlined in Chapter 2, the place of land in spirituality and national identity. These are central precepts for many, if not all, original peoples of Turtle Island, who view Aboriginal title as something given by the Creator and dependent on a continuing connection to the land, deeply connected to identity, spirituality, and self-determination, so that land negotiations are more than disputes over papers signifying 'ownership': they are located firmly in the context of relationships with other people. Aboriginal title does not require definition or justification by the Canadian legal or constitutional system, because its source is external to these systems; instead, many Aboriginal people (such as Hazel Hill) argue that the legitimacy of the Canadian state is called into question by failures to recognize Aboriginal title and its base in colonial rationalizations.⁶⁹³ Indeed, failures of Canadian courts to protect First Nations' lands and sacred sites are often viewed as attacks on the people themselves which put Canada's "national soul" at stake: for "peoples, like persons, may bleed to death from one large or a thousand small cuts."⁶⁹⁴ Though often forgotten by surrounding communities with short memories, the Haudenosaunee have protested Canadian disregard for their land rights for well over a century, as explained in Chapter 1. "Unfortunately no one was listening until now."⁶⁹⁵

First Nations' focus in both historic treaty negotiations and modern claims negotiations, then, has been the retention of the land rights so essential to national and economic futures in the face of settler and government pressures.⁶⁹⁶ Most opposition from Aboriginal groups is galvanized in relation to plans for resource and land development. Struggles at Oka, Gustafsen Lake, Ipperwash and, I would argue, Caledonia, were 'sacredized' in the sense that they were intended to address not only the ownership of land, but the responsibilities that Aboriginal peoples assume towards it.⁶⁹⁷ Although Western development frameworks are more likely to protect land on the

⁶⁹³ Asch and Zlotkin, "Affirming Aboriginal Title," 214-216.

⁶⁹⁴ Ross, *First Nations sacred sites in Canada's courts*, 177-178.

⁶⁹⁵ Beaver, *Mohawk reporter*, 131.

⁶⁹⁶ Usher, Tough, and Galois, "Reclaiming the land: aboriginal title, treaty rights and land claims in Canada," 111.

⁶⁹⁷ Bobiwash, "The sacred and the profane: Indigenous lands and state policy," 206.

basis of cultural importance if it physically manifests significance in the form of archaeological remains,⁶⁹⁸ part of the ongoing fetish with cartography that inspired newly arrived Europeans to map the natural world,⁶⁹⁹ the concept of sacredness can provide a discursive bridge between cultures: “all human beings have an understanding of the sacred, or at least the spiritual.”⁷⁰⁰ This may provide extra motivation for Six Nations representatives at Douglas Creek Estates to make frequent mention of the spiritual significance of land.

To many Aboriginal peoples such as the Haudenosaunee, as we have seen in Chapter 2, at stake in disputes over land are not only compensation, title, and places to grow, but also opportunities to re-order relationships and gain recognition and security as independent nations.⁷⁰¹ A profound sense of identity is bound to the land. As Bonita Lawrence explains, and as we have seen in the discussion of Canadian identity earlier in this chapter, identity is partly relational: it includes both what a person *is* and what a person *does*, and definitions of what a person *is* are also produced in relation to an other. Identity dictated by colonial powers, and the resulting regulation and encroachment, have continuing implications for Aboriginal communities trying to set boundaries “between their small remaining land base and the white communities around them.”⁷⁰² Regulatory regimes such as the Indian Act (and *Places to Grow*), then, are more than “a set of policies to be repealed, or even a genocidal scheme in which we can simply choose not to believe.” Rather, the Act is “a classificatory system produc[ing] ways of thinking – a grammar – that embeds itself in every attempt to change it.”⁷⁰³ Euro-Canadian participation in Indian affairs has often been interpreted as assistance in a relationship of dependence by Euro-Canadians, and as interference with sovereign nations by Aboriginal peoples. Mary Becker concludes that by acting *for* rather than *with* the Haudenosaunee, the government of Canada before and after Confederation opened the door to protest.⁷⁰⁴ Theresa McCarthy noted the same in her recent research at the Six Nations Territory: “[R]egardless of awareness or citation of colonial

⁶⁹⁸ Natcher, “Land use research and the duty to consult.”

⁶⁹⁹ Bobiwash, “The sacred and the profane: Indigenous lands and state policy,” 206.

⁷⁰⁰ Ibid.

⁷⁰¹ Usher, Tough, and Galois, “Reclaiming the land: aboriginal title, treaty rights and land claims in Canada,” 122-124.

⁷⁰² Lawrence, “Gender, Race, and the Regulation of Native Identity in Canada and the United States,” 24.

⁷⁰³ Ibid., 4.

⁷⁰⁴ Becker, “Native Peoples,” 240-241.

implications – what was consistently expressed to me [...] is a sense that the people want to retain autonomy, responsibility and ownership over the resolution of these issues in their community. What seemed to be most clear is their wish to do so without state sanctioned paternalism or interference.”⁷⁰⁵

As part of the effort to define political identity and shape political space, Haudenosaunee philosophers Oren Lyons and John Mohawk invert the relational lens, pointing to the influence of native Turtle Islanders to the development of the democratic tradition in Western culture,⁷⁰⁶ explaining, “history is still being written in the passions of the times and written by the ‘winners,’”⁷⁰⁷ Lyons emphasizes that most people see only the tip of North America’s ‘iceberg’ of history, ignoring the mass of pre-contact Native culture that lies beneath. Nor do many realize that colonists who ended up in Native society (fleeing indentured servitude, captured in raids, or rescued from the forest) rarely returned to white society when given the opportunity. Lyons hypothesizes that they preferred Indian egalitarianism and participatory democracy to the hierarchical societies of colonial America. Still, Indigenous people today must struggle to gain respect as equal societies and recognition of “the fundamental right of peoples and their societies to be different.”⁷⁰⁸ Likewise, Canadian philosopher James Tully cites two pivotal elements of Haudenosaunee culture in his appeal for mutual recognition and respect.⁷⁰⁹ He points to the Peacemaker of the Haudenosaunee Confederacy as an early practitioner of the conventions of mutual recognition, continuity and consent in forming diverse governments, and views the Two Row Wampum as a symbol of cooperation and autonomy with broad significance for the potential of interaction *and* independence between First Nations and settler societies. He joins Aboriginal thinkers such as John Borrows⁷¹⁰ and Dale Turner⁷¹¹ in calling for reinstatement of the Two Row’s principles of peace and friendship through separation *and* integration. As cited so often in conversations about Kanohstaton, the Haudenosaunee have long asserted that they

⁷⁰⁵ McCarthy, “It isn’t easy,” 116.

⁷⁰⁶ Lyons and Mohawk, “Exiled in the land of the free,” 2012; Williams and Nelson, *Kaswentah*.

⁷⁰⁷ Lyons, “The American Indian in the past,” 16.

⁷⁰⁸ Ibid., 42.

⁷⁰⁹ Tully, *Strange multiplicity*.

⁷¹⁰ Borrows, *Recovering Canada*.

⁷¹¹ Turner, *This is not a peace pipe*.

are allies, not subjects of the British Crown and its successor state, though these declarations were ignored by Canada and the United Nations.⁷¹² As Tully puts it,

When Aboriginal people at the United Nations, for example, demand recognition as 'nations' with 'the right of self-determination', they are arguing that the prevailing criteria and reference of these terms ought to be revised to include them, rather than to exclude them, as they have done for the last five hundred years.⁷¹³

Aboriginal struggles for recognition of distinct identities and autonomous spaces take many forms. Ward Churchill calls for material efforts such as the reclamation in Caledonia, asking Aboriginal people to "move away from the notion" that the courts of the colonizers will provide justice: what is needed is to "physically engage in a process of occupancy."⁷¹⁴ Linda Tuhiwai Smith focuses on decolonizing knowledge and research, and has much to say about less tangible but no less important strategies to regain control over identity, calling for a re-naming of colonized Indigenous space: "Naming the world has been likened by Paulo Freire to claiming the world and claiming those ways of viewing the world that count as legitimate."⁷¹⁵ When the colonizers brought the land under their control by claiming it, mapping it, draining swamps and diverting waterways, then 'giving back' reservations to the peoples who once possessed all of it, they also christened it, a move that Smith says "was probably as powerful ideologically as changing the land."⁷¹⁶ When Six Nations protesters began to refer to Douglas Creek Estates as Kanonhstaton, it was more than a halt to development: they sought to shape space by naming it, claiming land and sovereignty for future generations. "We won't actually meet that seventh generation," Lyons says, "but our collective actions will determine the kind of life they have and whether or not they can be all we hope they can be."⁷¹⁷

Mohawk intellectual Taiaiake Alfred⁷¹⁸ views Native nationalism as consisting of a stable and persistent core along with peripheral elements adapted as needed: for instance, by utilizing

⁷¹² Williams and Nelson, *Kaswentah*.

⁷¹³ Tully, *Strange multiplicity*, 39.

⁷¹⁴ Churchill, "Yellow Thunder: forging a strategy to win," 241.

⁷¹⁵ Smith, *Decolonizing methodologies*, 81.

⁷¹⁶ *Ibid.*, 51.

⁷¹⁷ Lyons, "The seventh generation yet unborn," 60.

⁷¹⁸ Alfred, *Heeding the voices of our ancestors*.

certain concepts, such as state-like nationalism, to more effectively challenge Euro-American institutional hegemony. He views the native-settler relationship as having four overlapping phases: an initial phase of cooperation, a co-optive period in which institutional regimes usurped indigenous control, a confrontation stage of ideological, intellectual, political, and military challenges to colonialism, and finally, crisis:

The multi-faceted confrontation between Natives and the state eventually results in a breakdown of the existing framework. If the state is successful in moderating the Native challenge and reinforces the co-optive relationship, the Native community undergoes a fundamental re-orientation toward fully accommodating the previously established system of internal colonialism. If the state, incapable of moderating the Native challenge, succumbs to the challenge either through Native actions or as a result of internal inconsistencies within the institutional framework, a fundamental re-orientation of the relationship itself is initiated. In either case this pattern of interaction may be termed 'crisis' because of its inherent instability and the larger societal accommodation which must accompany re-evaluation of the principles of the Native-newcomer relationship.⁷¹⁹

He perceives latent nationalism changing to 'revival nationalism' as the co-optive aspects of Native-settler relationships become clearer, and as significant events catalyze change. For Six Nations, I have suggested in Chapter 2, the land reclamation is just such an event. Alfred describes his Mohawk community, Kahnawake, and other Iroquois communities such as Six Nations, as having especially strongly asserted nationalism because of the vigour of the Iroquois cultural complex and the Confederacy as sound alternatives to the Canadian state, combined with what Alfred views as consistently negative relations with Canada.⁷²⁰

Six Nations must explicate a carefully deliberated public persona as the dissenting party in this relationship, since "activists are, by definition, concerned with altering the status quo by stating grievances and imagining new and better worlds."⁷²¹ Just as Canadian cultural imaginaries are inseparable from the actions of its representatives in this dispute, so too are Six Nations' identities and assertions always and already working together to shape their surroundings and futures. Six Nations representatives exhibit, access, and reinterpret many of the sociological

⁷¹⁹ Ibid., 181.

⁷²⁰ Ibid., 184.

⁷²¹ Johnston, Larana, and Gusfield, "Identities, grievances, and new social movements.", as paraphrased by Satterfield 2002, 9.

processes and strategies common to activists of different stripes. And yet, as noted with relation to indigenous lands and resources movements elsewhere,⁷²² Six Nations must also contend with identities not of its own making. The prism of cultural difference refracts struggles over resource rights, joining “the politics of recognition and the politics of redistribution” and resulting in “cultural contest[s] waged on the contested terrain of race, nature, and difference.”⁷²³

Governments play key roles in the categorization of Indigenous people and the tying of these identities to land and resource rights in racialized ways, fixing boundaries “not only by processes of political mobilization but by the places of recognition that others provide.”⁷²⁴ Neither ‘side’ in this dispute over land expresses uniform opinions or views. And yet, as Six Nations academic Theresa McCarthy explains, racist undertones frequently emerge when “characteristics of diversity in general are coded differently in reference to Aboriginal peoples [...] [M]ainstream representations of difference reflect ‘good citizenship’ in Ottawa, while these are interpreted as ‘disunity’ in Aboriginal contexts.”⁷²⁵ As Oren Lyons put it, “No one, for example, seems to seriously argue that the United States ceased to exist during or because of the Civil War.”⁷²⁶ The colonization process endeavoured to obliterate Aboriginal worldviews “by force, terror, and educational policy.”⁷²⁷ Though nowhere near a total success, cultural fragmentation did occur, resulting in a sometimes uncomfortable mixture of Aboriginality and Eurocentrism. “It is this clash of worldviews that is at the heart of many current difficulties with effective means of social control in postcolonial North America.”⁷²⁸ McCarthy points out that discord in challenging circumstances is unsurprising. She cites a caller to a Six Nations radio show who explained:

The reservation [...] is no different than any group [...] Whatever fears, or loves, or likes, or ... little flocking together of birds-of-a-feather, or whatever it is that MAKES people split into groups – those same things cause splits within the reservation. Maybe Indians are THE most splittable people. Our land has been split. Our tribes have been split. Our culture split. Our beliefs split. Our laws split. Our thoughts, hopes, and decisions, then,

⁷²² Li, “Masyarakat Adat, difference, and the limits of recognition in Indonesia's forest zone.”

⁷²³ Moore, Pandian, and Kosek, “The cultural politics of race and nature: terrains of power and practice,” 42.

⁷²⁴ Li, “Masyarakat Adat, difference, and the limits of recognition in Indonesia's forest zone,” 404.

⁷²⁵ McCarthy, “It isn't easy,” 89.

⁷²⁶ Lyons, “The American Indian in the past,” 39; McCarthy, “It isn't easy,” 99.

⁷²⁷ Leroy Little Bear, “Jagged worldviews colliding,” 85.

⁷²⁸ *Ibid.*, 77.

have a nice long history of forks in the road. Some of the non-Indian roads have brought gladness and some have brought a crushing of hope. So there's lots of distrust.⁷²⁹

I do not wish to paraphrase McCarthy's concise insights on the subject:

When Aboriginal diversity confounds homogenous assumptions entrenched in legislation, i.e, the Indian Act, mainstream interpretations tend to emphasize 'disunity,' intrinsic weakness, and inadequacy. It is rarely understood that the criteria for 'membership' and for leadership in Aboriginal communities are legislatively imposed and far from equitable. Nevertheless the mainstream political strategy often accelerates public disdain and resentment, reaffirming the authority and superiority of dominant ideologies and political systems. This 'playing up of differences' creates and cyclically reinforces the impression that Native peoples are incompetent and incapable of self-determination.⁷³⁰

She explains that respect for diversity is a crucial part of Haudenosaunee culture. However, structures such as the Band Council imposed in 1924 included no provisions to foster political parties, for instance, leaving reserve communities with only the option of overthrow in cases of intractable differences. And, because the federal government only recognized the Band Council (until the reclamation, at least), the stakes are high. McCarthy, a Haudenosaunee academic who grew up in Caledonia, turns the lens onto her childhood community, describing several 'factions' which align themselves variously along the spectrum from approval to disgust at Six Nations and the occupation at Douglas Creek Estates (often treated as one and the same). She points out that no one would ever ask whether the existence of these conflicting groups points to alarming cultural disunity in Caledonia or Canada, or calls their futures into question. Instead, these factions are likely to be validated by "mitigating factors, like fear, ignorance, confusion, and ironically frustration and inconvenience" and even used to "excuse some Caledonians' racist outbursts, as well as other expressions of aggressive and violent behaviour."⁷³¹ Yet the existence of 'external stressors' is not used to explain political dissidence within the Haudenosaunee; instead, as we saw in Canadian presentations of political difference within Six Nations, it is implied that they are "victims of their own making" – a trend of associating Iroquois factionalism with

⁷²⁹ "Talk of the Nation.", as cited in McCarthy 2006, 76.

⁷³⁰ McCarthy, "It isn't easy," 90.

⁷³¹ McCarthy, "Mobilizing the metanarrative of Iroquois factionalism and the Kanonhstaton land reclamation in the Grand River Territory," 3.

“primitive politics and underdeveloped ‘weak states.’”⁷³² For instance, in 2008, federal negotiator Ron Doering published an explanation as to why negotiations in Caledonia have failed to produce resolution, implicitly blaming delays on divisions at Six Nations. However, McCarthy says, though settlement and inter-community healing remain distant, Six Nations is focusing not only on outsider confirmation and recognition (Haudenosaunee are well-versed on outsider representations, a fact noted with surprise by at least one anthropologist working at Six Nations⁷³³), but on the internal significance of the reclamation to the nation. The conflict once again proves to be more than a dispute over the right to shape geographies: its significance for political relationships both within Six Nations and Canada as well as between the two is colossal.

The deployment and shaping of identities through public conflicts is not unique to the dispute in Caledonia, of course. Public representatives fight for legitimate discursive space in territorial contests everywhere. Terre Satterfield’s study of a conflict over the fate of Oregon’s forests, carried out very publicly between ‘loggers’ and ‘environmentalists,’ uncovered many knots between projected persona and identity. All individuals and parties involved demonstrated deeply rooted positions, both accessing and reinventing broader group and movement identities:

Amidst the struggle to maintain a voice in decisions about an already depleted land base, some activists from both groups are visionary, some are vindictive, some are prejudicial, some are none of these. Moreover, Oregon’s loggers and environmentalists are ingenious beings. They invent, elaborate, and portray effectively their respective group identities in relation to key topics and practices in American society. They draw from and play off the popular ideologies of democracy, science, cultural authenticity, and the normative rules for emotional comportment. Their varying discourses and behaviours are acutely sensitive to the power of these enduring cultural discourses and yet also fully attuned to harnessing them in order to promote their own versions of the cultural world of human-environment relations.⁷³⁴

Not only do individuals and groups orient themselves to each other, they articulate their discursive positions with respect to ongoing societal conversations. Satterfield discusses the connections between controversial ‘dialogues of difference’⁷³⁵ and identity formation and

⁷³² McCarthy, “It isn’t easy,” 4.

⁷³³ Ibid., 69.

⁷³⁴ Satterfield, *Anatomy of a conflict*, 160-161.

⁷³⁵ Ibid., 9.

collective action, pointing out, “new social movements often come into being because a group’s identity is regarded as threatened.”⁷³⁶ This is certainly true in the case of Six Nations, and many of the themes exhibited in the Oregon forest conflict bear striking resemblance to those in Caledonia. For instance, the ways emotion played into the debate(s) often served to marginalize the “emotionally out of control, thus justifying the ‘discounting’ of their concerns”⁷³⁷: legitimated power’s effect on perception means that activists are often dismissed as irrational, while government representatives with equally strong views are respected. Though excessive emotion is generally viewed with distaste in North America, passion, just a hair’s breadth away, is often positively perceived. It is difficult to say, then, whether Hazel Hill’s passionate - or excessively emotional, depending on who is asked - newsletters from the site are ‘good’ or ‘bad’ for the reclaimers’ cause in Caledonia. (It could also be asked whether or not she is particularly concerned with this question – and my impression is that she is not.) Satterfield observed that environmentalists were less concerned with restraining their anger, an approach made permissible by their social position as educated, middle-class activists vis-à-vis relatively stigmatized loggers. Here I hear echoes of Caledonian discourses: though it was viewed as entirely acceptable and excusable for residents to indulge in highly emotional, even racist rants about the effects of the protest on their town, Six Nations protesters expressing strong feelings about their desire for justice and the settlement of their long outstanding claims were viewed with distaste. Satterfield explains that “in responding emotionally to an event, here and elsewhere, people are staking a claim as to how things are, and they act to reassert that reality or socio-moral position.”⁷³⁸ At Caledonia, we hear federal negotiator Ron Doering speaking of fear that the dispute will never be resolved, while Six Nations representatives talk of settler societies’ fear of the truth. Both sides utilize moral shock language (“can-you-believe-what-they-did”) to kindle indignation and claim moral territory.⁷³⁹ And archetypal themes of “individual freedom” and “economic liberty”⁷⁴⁰ are accessed in complex ways with regards to the ‘rule of law’ and property rights by both Canada and Six Nations over the terrain of Douglas Creek Estates.

⁷³⁶ Johnston, Larana, and Gusfield, “Identities, grievances, and new social movements,” 23, as cited in Satterfield 2002, 9.

⁷³⁷ Satterfield, *Anatomy of a conflict*, 137.

⁷³⁸ *Ibid.*, 149.

⁷³⁹ *Ibid.*, 158.

⁷⁴⁰ *Ibid.*, 157.

Haudenosaunee protesters must also contend with the noble savage legacy, which often holds Aboriginal people to impossible and reductionist yardsticks of authenticity, requiring, for instance, that they place everything second to land, ignoring necessities for food, shelter, and jobs which may interfere with these ideals. Meanwhile, Satterfield says, Aboriginal activists have “wisely, strategically, and sometimes ironically exploited for their benefit Western assumptions about noble non-Western peoples.”⁷⁴¹ Haudenosaunee philosopher Oren Lyons’ heartfelt appeals for consideration of the current environmental crisis and the future of the unborn generations,⁷⁴² then, are likely to be met at least with recognition, if not approval. To Alfred, however, the essentialist portrayal of a conflict between “unbroken tradition and continuity with the past” and “conscious manipulation of traditions and cultural inventions in the emergence of nationalist ideologies” is a false dichotomy. “Ideologies/peoples/nations/cultures [...] of course change – and they do not.”⁷⁴³ This does not mean, however, that Indigenous activists’ concern for the environment, and sometimes seeming unwillingness to compromise, as at Caledonia, should be met with cynicism. For instance, Bobiwash⁷⁴⁴ cites a (strategic?) walkout of Indigenous people from the United Nations Working Group on Indigenous People. It was accompanied by a statement emphasizing that partnerships must recognize Indigenous decision making processes, world views, and assertions of land rights as equally valid. Indigenous peoples have for centuries had to adapt to processes laid down by colonial governments:

The refusal to participate in the process on any terms but those that respect Indigenous processes reveals the formation of a set of values and behaviours that identify an international Indigenous identity. To dismiss the Indigenous Peoples Caucus refusal as a cynical power political ploy is not just wrong, it further reinforces the disenchantment and disempowerment that leads to confrontation not only in Canada but [in many other countries].⁷⁴⁵

Furthermore, as at Kanonhstaton, environmental defence, anti-colonialism, and assertion of self-determination are often intertwined efforts. Lanthier and Olivier view environmentalism as “part

⁷⁴¹ Ibid., 103.

⁷⁴² Lyons, “The seventh generation yet unborn.”

⁷⁴³ Alfred, *Heeding the voices of our ancestors*, 188.

⁷⁴⁴ Bobiwash, “The sacred and the profane: Indigenous lands and state policy.”

⁷⁴⁵ Ibid., 205.

of the movement to liberalize the political sphere: that is, to include new elements in the tacit contractual relationship between sovereign and subject.”⁷⁴⁶ They point out deep linkages between environment and sociology, ecocide and genocide, citing, for instance, negative impacts of industrialization on quality of life effected by imperialist exploitation and governmentality over the environment and people. Both environmentalist and anti-colonial discourses are rooted in desires for better quality of life and the right to shape local environments, natural and political. Public discourses utilized by Aboriginal peoples often involve narratives designed specifically to counter those constructed by colonial powers, such as settler stories highlighting pioneer heroes and the ‘discovery’ of ‘untouched’ regions.⁷⁴⁷ Six Nations spokespersons certainly tell different stories about the shaping of Grand River landscapes than the tales of founding fathers and innocent immigration recounted by settlers living in the towns built on Haudenosaunee land.

Challenges to colonial narratives, economic paradigms, and environmental destruction made manifest in claims to land and autonomy, then, are recurring theses for Aboriginal protesters such as those working to assert Six Nations’ land rights. But Aboriginal activism, like other social struggles, also depends on resources. Increasing pan-Aboriginal identity and the funding of national Aboriginal organizations do not necessarily trigger increased protest, because differences in legal status and federal funding between groups frustrate political engagement.⁷⁴⁸ Instead, it appears that First Nations groups “must be disadvantaged enough to be dissatisfied, but resource-rich enough to be able to challenge dominant groups.”⁷⁴⁹ In the case of the complex political community of Six Nations, the continued existence of the Confederacy Council, a governance alternative to Canadian state structures, likely plays a strong role along with its relatively (compared to many other First Nations) educated and large population and central location. Another resource required by Aboriginal and other activists is the possibility of receptive audiences. An element of strategy for protesters such as the Six Nations, then, is to frame issues in recognizable terms. In Carroll and Ratner’s study of “master-frames” in social

⁷⁴⁶ Lanthier and Olivier, “The construction of environmental awareness,” 71.

⁷⁴⁷ Furniss, “Challenging the myth of indigenous peoples’ ‘last stand’ in Canada and Australia: public discourse and the conditions of silence,” 173.

⁷⁴⁸ Ramos, “What causes Canadian Aboriginal protest? Examining resources, opportunities, and identity 1951-2000,” 216.

⁷⁴⁹ Wilkes, “First Nation Politics,” 583.

movements,⁷⁵⁰ they observed the frequent utilization by Aboriginal activists of a ‘liberal injustice’ frame rather than one based on political economy or identity politics. This frame envisages the state as the container of politics, and parliaments and governments as powerful agents: injustice, then, is grounded in the denial of rights. Aboriginal activists’ identification with this master frame implies some commonality with protesters from other movements; however, “the fulcrum of contemporary Aboriginal politics is the conjoint struggle for land claims and self-government.”⁷⁵¹

This brings us back to the themes brought out in Chapter 2, where we saw Haudenosaunee assertions of the ties between land, relationships, and self-determination evidenced again and again. Though Canada recognized the Confederacy Council as Six Nations’ governing body in the negotiations, it denied Six Nations the right to assert authority over contested lands through the Haudenosaunee Development Institute. Motivations for this stance likely include combinations of the belief that Six Nations is simply being ‘unrealistic’ in claiming the right to self-govern; the perception that Indians demanding autonomy should be denied any recognition of the government’s fiduciary and treaty responsibilities; a focus on the positions of those Aboriginal people who are relatively content to belong to Canada; fear of a legal vacuum in the creation of a third order of government; and everything in between. What might a Canadian topography shaped by recognition of broad Aboriginal rights to land and self-government actually look like? Scholars of political science, law, and philosophy have imagined a wide range of proposals, each based on differing conceptions of the justification or source of Aboriginal rights and title, grounding it alternately in Aboriginal or Canadian law; longstanding occupancy and management; some combination of the above; or other factors.⁷⁵² Examining the constitutional and legislative history of Aboriginal title in British settler states, political scientist Peter Russell contends that

The quest for recognition of land rights is at the centre of the modern Indigenous peoples’ movement. The denial by occupying states of Indigenous peoples’ ownership of the lands and waters that supported them for generations is the root cause of the

⁷⁵⁰ Carroll and Ratner, “Master Frames and Counter-Hegemony.”

⁷⁵¹ Ibid., 420.

⁷⁵² This massive and fascinating body of scholarship deserves much more attention than I am able to pay it within the constraints of this study. Since the legal terrain of Aboriginal rights and title is changing especially rapidly, I have chosen to focus mainly on relatively recent bodies of work within the Canadian context, focusing on discussions of sovereignty and land rights as they might apply to the Haudenosaunee of Six Nations.

injustice these people have suffered. Endeavouring to overcome this injustice is what distinguishes the political movement of Indigenous peoples from that of any other group or minority within the world's nation-states. For Indigenous peoples, land rights subsume their right to self-determination. The collective self whose future they wish to determine derives its identity from a historical relationship with a particular place on earth. Their right to self-determination, therefore, can be realized only when their right to decide how to live in that part of the earth and their responsibility to care for it are recognized.⁷⁵³

Highlighting the paradox by which judiciaries are now asked to question the very legitimacy of their settler states, Russell also believes that Canada's Indigenous peoples have been able to capitalize somewhat on its mania for constitutional reform. Though conceding that top-down policies are simpler, Russell calls for agreements negotiated under free and fair conditions, which can be dignified with the name 'treaties,' and seeks a truly multinational understanding of Canada, citing growing evidence of a positive correlation between Aboriginal peoples' control of their own land and resources and the welfare of those nations.⁷⁵⁴

Constitutional debates, in fact, bring together many of the themes discussed throughout this chapter, connecting the story of the contest over land and sovereignty at Kanonhstaton to the topography of competing landscape histories and identities within the geographical borders of Canada. Indigenous struggles the world over are connected by the contours of their demands for new definitions of and recognitions of culture and nationhood. Political philosopher James Tully argues that "modern constitutionalism" is incapable of housing the requirements for cultural accommodation being made all over the world, asking, "What is the critical attitude or *spirit* in which justice can be rendered to the demands for cultural recognition?"⁷⁵⁵ He answers his own question by referring to the famed *Spirit of Haida Gwaii* sculpture by Haida artist Bill Reid, depicting a canoe packed with diverse inhabitants, each scuffling for recognition and acting from irreplaceable perspectives. Tully points out that societies are called "multicultural" with "no agreement on what difference this makes to the prevailing understanding of a constitutional

⁷⁵³ Russell, *Recognizing Aboriginal title: the Mabo case and Indigenous resistance to English-settler colonialism*, 155.

⁷⁵⁴ Ibid., 335-346.

⁷⁵⁵ Tully, *Strange multiplicity*, 1.

society.”⁷⁵⁶ Indeed, as discussed earlier in this chapter, the tensions inherent in Canada’s claims to ‘multiculturalism’ have proved problematic. Tully explains that the constitution should be seen as an ongoing intercultural dialogue respecting mutual recognition and consent, which demand that Aboriginal peoples enjoy self-government – in short, sovereignty.⁷⁵⁷ To him,

[T]he two public goods [contemporary constitutionalism] harbours come into sharp relief ... they are the critical freedom to question in thought and challenge in practice one’s inherited cultural ways, on one hand, and the aspiration to belong to a culture and place, and so to be at home in the world, on the other.⁷⁵⁸

His vision for re-thought constitutionalism speaks volumes to Six Nations’ attempts to reclaim land and recognition of sovereignty. Though the accounts of and for Aboriginal self-determination in this discussion are expressed in intellectual terms, representatives for Six Nations in this dispute over land have articulated their visions equally strongly and with clear references to these overarching discussions. Recurring in Six Nations’ discourses is the conviction that their Aboriginal ‘rights’ are inherent and Creator-given, not delegated by the Canadian state or requiring justification by settler law. They are not a class of ‘minority’ citizens with special privileges, but unique and distinct peoples with their political systems that have equal validity to those of Canada. The Haudenosaunee view treaty relationships as being of fundamental importance and reaffirm again and again the importance of dealing with Canada ‘in right of the Crown’ to reflect this historic alliance. Though some representatives for Six Nations in the protest or at the negotiating table may be concerned less with definitions than outcomes, the importance of nation-to-nation relationships under the Two Row Wampum is constantly avowed. And because conversations about land and sovereignty are controlled by Canadian terminology, Six Nations activists have taken up the task of asserting the injustices done them in language familiar to the dominant society surrounding them, speaking of rights and legalities in ways that others can understand. We see many of the academic and theoretical arguments on offer today re-presented in the struggle for geographic and political space at Kanonhstaton.

⁷⁵⁶ Ibid., 2.

⁷⁵⁷ Ibid., 191.

⁷⁵⁸ Ibid., 202.

Matthias Koenig and Paul de Guchteneire⁷⁵⁹ point out that debates about the ‘politics of cultural recognition’ and ‘multicultural citizenship’ in culturally diverse societies address two main dilemmas. Firstly, (how) can the recognition of difference be squared with the need for interdependence and trust in a democratic polity? This demands constitutional arrangements establishing a shared space of interaction that would still permit distinct cultural practices and identities. The second major dilemma, they say, requires the reconciliation of group-differentiated minority rights to self-rule with individual human rights to inclusion in the broader polity. These are largely philosophical rather than empirical problems, in their view. But to Aboriginal activists, leaders, and thinkers such as those at Six Nations, a major impasse concerns the terms of the debate itself. The language used in discussions around sovereignty acts as a normative framework for Aboriginal declarations: “That is, they seek recognition as ‘peoples’ and ‘nations’, with ‘sovereignty’ or a ‘right of self-determination’, even though these terms may distort or misdescribe the claim they would wish to make if it were expressed in their own languages.”⁷⁶⁰ Tully points out, as Six Nations has so often done, that mutual recognition will be ineffective if it attempts to comprehend each culture on the same terms, failing to rethink fundamentals of constitutionalism such as the axiomatic connection between nations and nation-states. Indigenous philosopher Dale Turner explains, “Aboriginal people’s understandings of their ‘rights’ are constrained by contemporary constitutional discourses.”⁷⁶¹ They view Indigenous rights as not simply another class of minority rights to be defined within the context of the Canadian state, but as flowing from legitimate political sovereignty. Important continuities exist between old discourses legitimizing assimilation and current Ottawa debates on Aboriginal sovereignty,⁷⁶² both justified by colonial assumptions and “unilaterally setting down limits for *any* political dialogue to occur.”⁷⁶³ While many Aboriginal people do not question that they are Canadian, it does not follow that they simply embrace the status of citizens with perks.

The Aboriginal voice, in order to participate in political liberalism’s dialogue about the significance of Aboriginal rights, must be able to filter out the spiritual dimension which lies at the heart of Aboriginal views on sovereignty and translate them into the language

⁷⁵⁹ Koenig and de Guchteneire, “Political governance of cultural diversity.”

⁷⁶⁰ Tully, *Strange multiplicity*, 39.

⁷⁶¹ Turner, *This is not a peace pipe*, 13.

⁷⁶² Turner, “From Valladolid to Ottawa.”

⁷⁶³ Turner, *This is not a peace pipe*, 55.

of rights. This is what Aboriginal peoples have been trying to do since the time of contact, but the translation process itself is the problem [...] Aboriginal philosophies must be forced into the language of policy in order to be deemed useful.⁷⁶⁴

Turner explains that the adversarial nature of the Western European legal tradition does violence to Aboriginal understandings of political sovereignty.⁷⁶⁵ “If one culture refuses to recognize another’s facts in the other culture’s terms then the very possibility of dialogue between the two is drastically undermined.”⁷⁶⁶ The preamble to the *Constitution Act, 1982* claims that Canada is founded on respect for the supremacy of God and the rule of law: a mono-cultural statement that “projects a singular and powerful cultural image over the Charter.”⁷⁶⁷ Discursive emphases on ‘rule of law’ that we heard from Canadian representatives in Caledonia can be easily traced to national foundations such as these, which so clearly disregard the worldviews and systems of law already in place on Turtle Island. Mary Ellen Turpel delves into the paradigm which presumes that multicultural difference can be reduced to management of ‘minority’ issues without recognizing the inherent challenge posed by Aboriginal peoples to the entire individualistic ‘rights’ approach to social conflict, clearly derived from Locke and Hobbes’ emphasis on the protection of private property as the reason to enter civil society. As it is, Aboriginal visions are constrained by the individualist legal order: visions for collective rights and Aboriginal conceptions of law are so alien to the Canadian single-state framework that simply making a claim necessitates accepting dominant legal textual and interpretive frameworks. The contemporary world of Aboriginal politics focusing on self-determination (which may or may not include self-government), then, is necessarily packed with references to rights to self-government, title to land, equality, social services, and to practice spiritual beliefs. However,

genuinely recognizing another People as an(other) culture is more than recognizing ‘the rights’ of certain persons. Aboriginal cultures are not simply groups of persons who are culturally at a prior state of development and of different races [...] Aboriginal cultures are the manifestations of a different human (collective) imagination. They are no less than culturally distinct.⁷⁶⁸

⁷⁶⁴ Turner, “From Valladolid to Ottawa,” 65.

⁷⁶⁵ Ibid., 63.

⁷⁶⁶ Gitksan Hereditary Chiefs, Gisdan Wa, and Delgam Uukw, *The Spirit in the land*.

⁷⁶⁷ Turpel, “Aboriginal peoples and the Canadian Charter: interpretive monopolies, cultural differences,” 42.

⁷⁶⁸ Ibid., 56.

Do Six Nations' references to treaty federalism, nation-to-nation, Two Row Wampum, and inherent right to self-government obscure or illuminate the debate?⁷⁶⁹ International law separating national from international competence does not exhaust sovereignty's meaning, and sovereignty can be exerted concurrently by more than one entity: this is, after all, the concept of federalism.⁷⁷⁰ Although the *Report of the Royal Commission on Aboriginal Peoples* ultimately concludes that definitions are less important than relationships,⁷⁷¹ it also provides space for definitions such as that of Taiaiake Alfred, who suggests the Mohawk *tewatatowie*, meaning "we help ourselves." The term encompasses concepts of interests, boundaries, and responsibilities related to land as expressed in the Great Law of Peace, and includes respect for others *and* autonomy: "the people take care of themselves and the lands for which they are responsible."⁷⁷²

Is it possible to recognize Six Nations' demands for self-determination without causing social upheaval? Does Canadian legal tradition leave room for alternative state arrangements? Law professor Patrick Macklem believes that it does. As he proposes, "a unique constitutional relationship exists between Aboriginal people and the Canadian state which does not exist between other Canadians and Canada."⁷⁷³ He explicates key factors constituting 'indigenous difference' warranting constitutional protection: prior sovereign authority, the treaty process, and most pressingly, occupancy prior to European arrival and establishment of the Canadian state. While end-state theories are suitable for distributive justice in some cases, and historical entitlement for others, the choice is redundant in the case of Aboriginal title, he says: Canadian property law is already committed to prior occupancy as a means of assessing competing claims to land. Formal equality therefore requires that Aboriginal people benefit from its application (as Six Nations so often points out in references to Canada breaking its own laws). Raising the possibility of a third, Aboriginal order of legislative authority, he explains, "the fact that Aboriginal people also belong to the broader community should not obscure the fact that this issue [of Canadian citizenship] will arise exactly when Aboriginal interests and those of the broader

⁷⁶⁹ Cairns, *Citizens plus*, 6.

⁷⁷⁰ Flanagan, *First Nations?*; Macklem, *Indigenous difference and the Constitution of Canada*, 109.

⁷⁷¹ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, vol. 2.

⁷⁷² *Ibid.*, vol. II.

⁷⁷³ Macklem, *Indigenous difference and the Constitution of Canada*, 4.

community are in conflict.”⁷⁷⁴ *And how*: we have only to look at Caledonia and Brantford to see Macklem’s predictions borne out. The ‘rule of law’ discourse so often cited by mainstream Canada is all about terms of citizenship and Aboriginal ‘special’ rights.

Macklem, like the Confederacy Council, calls for nation-to-nation negotiations in good faith. To him, Canadian sovereignty must - and *can* - constitutionally acknowledge separate territorial and jurisdictional spaces for Aboriginal societies, recognizing tight linkages between self-government and land.⁷⁷⁵ Legal scholar Kent McNeil likewise argues that the *Constitution Act, 1982* provides an opportunity to leave behind the notion that legislative powers were exhaustively distributed between the federal and provincial governments;⁷⁷⁶ decolonization of the Constitution involves envisaging space for Aboriginal governments to exercise their inherent powers by interpreting Section 35(1) in an expansive way, avoiding a jurisdictional vacuum by empowering Aboriginal people to take charge of their own communities at whatever pace they choose.⁷⁷⁷

As we have seen in Chapters 1 and 2 in the long and continuing story of Haudenosaunee-settler relationships, the abandonment of more expansive notions of the Canadian state was, in fact, the result of a deliberate series of choices. Tracing the decisions that led to the abandonment of the treaty confederacy, James Sakéj Henderson draws attention to the space-shaping power of constructed law, which ignored the inherent rights of Aboriginal peoples in favour of conceptions that delegate rights from the British Crown. Europeans justified settlement of Indigenous lands with Locke’s theory of property demanding the mixing of land and labour, which appeared not to extend to First Peoples managing their lands, who were believed to have no government unless allied with a European Crown. The rise of the state - linking land and polity so tightly, as we heard from Olwig at the beginning of this chapter - thus accompanied the rise of colonialism.⁷⁷⁸ Henderson, like Six Nations, calls for resumption of the treaty commonwealth, which

⁷⁷⁴ Ibid., 189.

⁷⁷⁵ Macklem, “First Nations self-government and the borders of the Canadian legal imagination,” 445.

⁷⁷⁶ McNeil, “Envisaging constitutional spaces for Aboriginal governments,” 114-132.

⁷⁷⁷ Ibid., 136.

⁷⁷⁸ Henderson, “The context of the state of nature,” 22.

united the best of Indigenous and European traditions. It should not be characterized as a series of small-scale, routine adjustments to the context of colonialism. It was an alternative context-breaking explanation of the law of nature and nations that respected our sovereignty, our humanity, and our choices to preserve peace. The historical and legal legacy of the treaty commonwealth brings into question the necessity of colonization.⁷⁷⁹

Henderson's arguments concerning treaty citizenship⁷⁸⁰ are founded on the premise of inherent rights of Aboriginal people to their land: "Inherent rights not specifically delegated to the sovereign or placed under its administrative jurisdiction are reserved to the Aboriginal orders."⁷⁸¹ To him, treaty citizenship is a "good and decent vision and an integral part of the Canadian order"⁷⁸² that would avoid the take-it-or-leave-it propositions of merely federal citizenship and has potential to generate harmony through autonomous zones of power, freedom, and liberties.

In asserting rights to self-determination and treaty relationships, Six Nations must contend with mainstream views such as those expressed by Alan Cairns, who argues that to ask Canadians to accept and support foreign "nations" within their borders is impracticable, and asserts that the institutions of traditional federalism already represent Aboriginal peoples. Ascribing differences between Aboriginal and settler peoples primarily to the historical past, he asserts that "those who share space together must share more than space"⁷⁸³ and argues that self-government is unrealistic for Aboriginal people today, with growing urban populations and small land bases. Tom Flanagan goes further, contending, "Aboriginal government is fraught with difficulties stemming from small size, an overly ambitious agenda, and dependence on transfer payments."⁷⁸⁴ Flanagan likens European settlement to an inevitable, if possibly morally unjustified, takeover by a more powerful "tribe" that established legitimate sovereignty and argues that rejection of the *terra nullius* doctrine only makes sense in light of an unjustified rejection of the distinction between civilized and uncivilized societies. Flanagan believes that possession and control of Turtle Island has conferred "title by prescription [...] to the European

⁷⁷⁹ Ibid., 33.

⁷⁸⁰ Henderson, "Sui Generis and Treaty Citizenship."

⁷⁸¹ Ibid., 426.

⁷⁸² Ibid., 422.

⁷⁸³ Cairns, *Citizens plus*, 6.

⁷⁸⁴ Flanagan, *First Nations?*, 6.

discoverers and their successor states over the hundreds of years that they have controlled the New World.”⁷⁸⁵ Thus, references to inherent Aboriginal sovereignty are merely turns of phrase, without weight in either domestic or international law.

As explained in previous chapters, representatives for Six Nations in this dispute counter claims such as those of Cairns and Flanagan by pointing to the Covenant Chain and the Two Row Wampum as examples of agreements which allow mutual respect, interdependence, and yet autonomy. Claims that Canada deserves title to land because settlers have stayed here for a couple of hundred years are met with reminders that the Haudenosaunee have lived here for much, much longer. And along with Aboriginal legal scholar John Borrows, the Haudenosaunee assert that their rights stem from alternative sources of law, not from the moment of first contact with Europeans.⁷⁸⁶ Although Aboriginal people struggle to fully identify themselves as Canadian citizens because their primary interests are rarely expressed in the law or the goals of the state, in a vision strikingly similar to that of the Two Row Wampum, Borrows also proposes that Aboriginal citizenship could account for differences as well as integration of Aboriginal and non-Aboriginal people’s lives. “The *sui generis* doctrine expresses the confidence that there are sufficient similarities between the groups to enable them to live with their differences.”⁷⁸⁷

The history surrounding the Haudenosaunee of the Grand River Territory makes the specific workings of these discourses on the land, and the claims to physical and political space in the Canadian legal context, especially unique. Because the Grand River lands were part of the enormous Haudenosaunee hunting territory even before contact, broad claims to Aboriginal title justified by long occupancy and use, as well as spiritual and cultural connections, are made. And because a specific chunk of this land⁷⁸⁸ was ‘given’ to those of the Six Nations who chose to accompany Joseph Brant in recompense for losses in the Revolutionary War, and some of that land was subsequently bought or leased and not paid for, or stolen outright, Six Nations awaits

⁷⁸⁵ Ibid., 61.

⁷⁸⁶ Borrows, *Recovering Canada*, 9.

⁷⁸⁷ Ibid., 10.

⁷⁸⁸ However, the borders of this specific chunk were complicated between differences between land ‘granted’ in the Haldimand Proclamation and the subsequent Simcoe Patent.

resolution of twenty-eight specific land claims.⁷⁸⁹ Because Six Nations' claims are *specific* ones, addressing defined plots of land to which alleged incidents of defrauding, non-payment, and theft are attached, the task of resolving them appears to be in some ways less complicated than that of addressing large comprehensive claims, which to the Western legal mind, especially, likely seem to be more vague and fraught with intercultural difficulties. However, one of the claims awaiting resolution is in fact quite a large one: that of the 1841 Purported General Surrender of land, including the land that later (almost) became the Douglas Creek Estates. Since Six Nations alleges that this general surrender is invalid, these lands, mainly already developed, are implicated in the specific claims process. And as explained previously, Canada and Six Nations have stalemated on the question of the purported 1841 General Surrender for the foreseeable future. So although Six Nations' land claims are *specific* as understood by the Canadian land claims system, they also have wide geographic coverage. In addition, the documents detailing (to varying degrees) the histories of each of the twenty-eight claims are extremely complex and involve varying degrees of accepted 'legitimacy' on both sides. Only a few claims are viewed as relatively straightforward by both parties and 'merely' await decisions as to how much land or money is owed in compensation.

A second complication, which we saw evidenced in Six Nations' discourses regarding rights and sovereignty, is the considerable blurring between protesters' deeply held beliefs not only in their underlying rights as Aboriginal people to Turtle Island in general, and to the Haldimand Tract in particular, regardless of sales and leases conducted with varying degrees of adherence to legality, morality, or accepted protocol. There is also tremendous variance in how concretely members of Six Nations and other nations would envision rights to 'the land' being recognized, the degree of compensation they believe Six Nations to be owed as a result of past injustices, the ways they would like to see their Aboriginal rights to self-government worked out, and even the extent to which they differentiate and emphasize their various alliances to individual nation (Mohawk, Seneca, Cayuga, etc.), to the Six Nations of the Grand River Territory, to the Haudenosaunee at large, and to a broader pan-Aboriginality. Because those Haudenosaunee that settled at the Six

⁷⁸⁹ These *specific claims* are filed as such, according to Canada's terminology, designed to differentiate between smaller, more quantifiable grievances (specific claims) and broader claims to address larger, possibly less specifically defined territories, and areas where no treaties were made (comprehensive claims).

Nations of the Grand River Territory were officially recognized as British allies in a way that other Aboriginal nations of Turtle Island were not, many Six Nations people also explain that they are not 'Aboriginal' people as defined by the Canadian state. Whatever its source or identification, however, a generally and deeply felt sense of injustice in Six Nations is palpable.

As this section has discussed, the discourses presented by Six Nations in their efforts to shape space according to their own visions and values are complex and creative, but at all times the land remains central. The Haudenosaunee alternately and concurrently access elements of pan-Aboriginal identities, such as land's significance to identity and nationality. They also publicly and deliberately articulate cultural imaginaries in opposition to colonial frameworks and histories, which often paint pictures of 'factionalist' tendencies in the Haudenosaunee, talk about colonization as inevitable and/or justifiable, and define settler-Aboriginal relationships as ones of dependence rather than equality. Many of Six Nations' goals and values are expressed in terms that surrounding settler societies can comprehend and identify with, such as environmental discourses and invocations of sacredness. To participate more fully in public debates about Canadian constitutionalism and Aboriginal sovereignty, Six Nations representatives often articulate demands for self-determination in language understandable to their Canadian neighbours, even while echoing the insights and visions of diverse Canadian and/or Aboriginal legal scholars, political scientists, and philosophers.

Conclusions

As outlined at the start of this chapter, the conflict in Caledonia is enacted by persons profoundly implicated in enduring discourses about the nature of nature and nation, their rightful places in social and physical landscapes, and the racial categories utilized to justify segregations and erasures from the land and the polity. This holds not only for both the immediate geographies along the Grand River, but in topographies connecting process and people across Canada and the globe. When the rubber hits the road in struggles over landscape, these identities, heavily weighted by race, place, and history, come to the fore. Attention must be paid to the

simultaneity of symbolic and material struggles, refusing an assumed distinction between "merely" symbolic recognition and material resource redistribution. The cultural politics

of representation [...] enables us to conceive of how race, nature, and difference simultaneously shape both the very terrain that produces political subjects and the claims that these subjects make to rights, resources, and their redistribution.⁷⁹⁰

As we saw in Chapter 1, among the projects of discourse analysis is the uncovering of the *sayable*, delimiting boundaries around what can and cannot be expressed as part of a given discursive regime. These rules are profoundly implicated in relations of power and suppression that we see at work in Caledonia and in Canadian-First Nations relationships generally. And since discourses always exist together with their contexts and histories, we see that discursive themes and practices are part of contested histories, economies, legalities, and identities which are re-presented and re-articulated by Canada and by Six Nations in this dispute over land. The analysis presented in Chapter 2 explored themes in their connection to ongoing space-shaping projects on 'Canadian' soil. These included the management, designation, and protection of land; the role of land and property in identity and nationhood; the marking of spaces of 'normalcy' and legitimacy by excluding 'Others' who do not belong; the reinforcement of relationships predicated on assumptions of superiority and sovereignty rather than equality; the law's role in categorizing certain actions as 'acceptable' and 'unacceptable'; and differing notions of justice, legitimate history, and truth.

In this chapter, I aimed to illuminate the ways in which these discursive themes spring from fundamentally different cultural worldviews, and how they connect to larger identities and continuing global projects of (anti-)colonialism, racism, and developmentalism. I mapped a topography of this dispute in Caledonia to reaffirm the ways in which an apparent conflict over land is in fact subsumed by national and cultural imaginaries and identities, sedimented into the landscapes we see and experience today. The rights to shape political and geographical spaces and futures are intimately intertwined as people struggle to define landscapes of belonging (and exclusion).

But language triggers profoundly substantial, tangible products, too: the physical landscape is actually shaped and marked by battles and buildings, by backhoes and barricades, and the nation-

⁷⁹⁰ Moore, Pandian, and Kosek, "The cultural politics of race and nature: terrains of power and practice," 42.

state itself is contoured by these struggles over meaning and over land. If, as has been established in these first three chapters, the dispute at Caledonia is reflective of broader exclusions and denials, both discursively and physically, Canadian social sustainability demands new conversations and new landscapes to accompany them. It is to this project – possibilities for discourses marked by recognition and respect – that I turn in Chapter 4.

Chapter Four

FUTURE STORIES (TOGETHER?)

A cautionary tale

The Canadian government's 'fact-finder', Michael Coyle, issued his report on the dispute at Caledonia on April 7, 2006, less than six weeks after the reclamation began.⁷⁹¹ First outlining his perceptions of the positions of the various 'stakeholders' involved, including the protestors at the site, the Confederacy Chiefs and Clan Mothers, Henco, the elected Band Council, the Ontario Provincial Police, and the provincial and federal governments, he then advanced his views as to what should or could be done to resolve the dispute over the land. He referred to the first option as 'Maintaining the Status Quo': continuing to urge an end to the protest and relying on existing processes to address Six Nations' land grievances. His predictions as to the likely failure of this approach proved prescient:

This approach might be embraced by those who believe that the government should not be seen to reward those involved in unlawful actions. Such a concern is understandable, but offering no response to the continuing occupation means that the police may soon have no choice but to intervene. As two recent enforcement actions in relation to native occupations show, police intervention poses a risk to human lives, both for the occupiers and the police. If the occupation ends in police intervention without any prior constructive response to Six Nations' concerns from Canada, the atmosphere for future discussions and community consideration of settlement proposals could be jeopardized.

Finally, pursuing such an approach would not directly address the underlying grievances, either in connection with the Plank Road lands or Six Nations' claims generally [...] Failure to quickly address Six Nations' land grievances leaves the likelihood of future occupations near Six Nations. Equally important, disputes over Six Nations' land rights have festered unresolved for a very long time. Neither litigation nor the Specific Claims process has proved capable thus far of resolving any of the claims, much less resolve them quickly. The exploratory discussions appear positive, but under this route alone the bulk of Six Nations' claims will remain unresolved for a further decade or more. *The present situation offers the opportunity to adopt fresh approaches.*⁷⁹²

⁷⁹¹ Coyle, *Results of fact-finding on situation at Caledonia*.

⁷⁹² Ibid., 17-18, italics mine.

The second option, which he clearly advocates, is described as ‘Commitment to Enhanced Dialogue.’ It includes suggestions to expand the mandate of the discussions; to investigate the possibility of addressing Six Nations’ claims comprehensively rather than individually; for formal mediation processes to assist in negotiations; to address Six Nations’ land base concerns with flexible regulations governing additions to reserve lands; and to renew the relationship between the Crown and Six Nations. Despite the “risk” of being viewed as catering to “illegal” protesters, he calls for restoration of the Covenant Chain and Two Row Wampum relationship:

Canada will likely have concerns about the implications intended by these historic symbols. Still, the underlying point raised by the Confederacy is that they would like to clarify and renew the relationship between the Crown and Six Nations. It is open to the Minister to take up this invitation and offer discussions intended to renew relationships with Six Nations. His response could acknowledge the historic importance of the long-standing relationship with Six Nations and the need to strengthen that relationship today.⁷⁹³

He concludes, “in the end, of course, the success of any dialogue will depend on the ability of all parties to listen with respect and work to become ‘at one mind’ – a concept familiar to the traditions of all parties.”⁷⁹⁴ Coyle calls for the parties to recognize each others’ differing discourses. Without such respect, he correctly predicted that resolution of this dispute – discursively presented by the Canadian government as a simple question of law and property – would prove elusive. How will the story of this dispute over land end? Clearly, the settler societies and the Original People living on this soil some call Canada do not now share a socially sustainable future. Does paying attention to the values, histories, and identities of the parties involved bring us closer to achieving a new topography, one contoured by respect, understanding, and justice?

In Chapter 1 of this thesis, I outlined the story of the Haudenosaunee and of their relations with settler societies; keeping in mind my own location within those settler societies, I advanced my understanding of the importance of discursive analysis to unearth buried power relations and ideological underpinnings implicated in representations of ‘truth’ and ‘history.’ Because

⁷⁹³ Ibid., 24.

⁷⁹⁴ Ibid., 25.

discursive regimes are so inseparably linked to projects of claiming both legitimacy and actual space, the dispute at Caledonia is revelatory not only of the histories and geographies of its particular location, but of broader epistemologies and ontologies. What people say about the world consists of more than just words: these truth-claims actually mould landscapes and relationships. In Chapter 2, I told a Caledonia story, demonstrating how spokespersons for Canada and for Six Nations in this dispute over land access and re-present certain discursive strategies and themes in order to further their respective conceptions of 'landscape,' weaving identity and polity together in complex ways. Both parties seek to shape space according to their particular visions of law, justice, economy, and the future; and yet, the analysis also showed that Euro-Canadian discourses continually bury the histories and relationships that Six Nations invokes as fundamental and crucial to its existence. These claims that both parties stake to land and to validity were explicated further in Chapter 3, where I sought to show how these discursive moves are contoured with self-image and value systems not only for Canada and for Six Nations, but with struggles over the very meaning of landscape and nationhood the world over. The dispute in Caledonia over a particular patch of land is intimately linked to Six Nations' demands for recognition. As Michael Coyle warned, then, solutions will not be found in status quo approaches. Instead, innovative dialogues must be shaped, reflecting genuine commitments to recognizing both the legitimacy and the land rights of First Nations.

On this basis, and also citing the arguments of others before me, I advance in this chapter that Canada is not taking seriously its responsibilities to re-configure and decolonize its relationships with First Nations. The necessary response is simple in concept, though not easy to accomplish: Canada needs to unabashedly accept that reality is not monolithic, that differing, equally legitimate perspectives of history exist, and that more is at stake in disputes over land than the land itself. That said, as discussed throughout this thesis, land rights are foundational, and must be resolved; while claims are being addressed, relationships built up and treaties re-written, Canada must also acknowledge its obligation to truly 'consult and accommodate' First Nations with land under claim. This does not mean paying lip service to the concept, as has occurred with the Grand River Notification Agreement, but genuine consideration for First Nations' visions and plans. If one prefers 'practical' justifications for these steps, then take the argument that costly and socially damaging protests and litigation will certainly continue under the business-as-usual

scenario. From a moral standpoint, fashioning new discourses and practices is crucial for Canada to be able to claim national dignity, legitimacy, and honour. Underlying these projects, and therefore most importantly, the roots of the conflicts between the Original People and the settler societies must be honestly accepted – roots in racism, illegality, theft, broken promises, and denial, continually re-manifested in the discourses constituting the dispute in Caledonia today. If these realities are glossed over - as they have been at Caledonia, through citations of Canadian law, Canadian history, Canadian value systems and epistemologies, Canadian visions for economy, development, justice and society - it seems clear that the story of striving for healthy and mutually respectful relations in 'our home and native land' will not end well, and that conflicts over the right to shape Canadian landscapes will continue apace.

The land imperative

As we have heard evidenced in Six Nations' discourses and from various Aboriginal and other academics and writers, land is a tangible expression of sovereignty and identity. The acknowledgement of First Nations land rights, then, is vital to the shaping of new Canadian spaces and relationships. Though the government often asserts otherwise, the Canadian land claims process has proven largely ineffective both quantitatively – in terms of percentages of claims addressed – and qualitatively – in terms of satisfaction with claims that have actually been settled. First Nations have been demanding justice for decades using whatever means seemed necessary – in politely and strongly worded letters, through 'legal' and 'illegal' channels, through negotiations, arbitration, protest, and delegation. Compare Henco's near-immediate compensation of millions of dollars to Six Nations' long wait for fair dealings, and we remember that First Nations peoples are simply calling for what most (white) Canadians take for granted from their government: adherence to the law.

As legal scholar Bruce Clark suggested nearly two decades ago,⁷⁹⁵ existing constitutional law calling for recognition of Aboriginal and treaty rights must be honoured in order to close the gap between discursive principle and practice. Alternatively, he says, "a constitutional amendment deleting existing aboriginal rights would make the constitutional principle conform to the existing

⁷⁹⁵ Clark, *Native liberty, crown sovereignty*.

practice of ignoring that existing right.”⁷⁹⁶ Canadian landscapes, as we have seen, are fraught with frauds and denials of various kinds. Though huge tracts of land were ostensibly given up, these surrenders occurred when the Crown was acting as fiduciary trustee, charged with honesty towards First Nations instead of leading them to underestimate their own bargaining positions. Due to illegitimate surrenders, then, huge swathes of territory may still rightfully belong to Aboriginal peoples. “As contracts, each treaty conveyed or released only what the conveying or releasing parties, the natives, intended. And as a matter of law it is difficult to argue that the natives intended to relinquish something that their trustee’s representatives tricked them into believing they did not have”⁷⁹⁷: the power of words to shape the world. Clark writes not out of sentiment or a sense of social justice, “but because due observances of the rule of law require it.”⁷⁹⁸ It should also be noted that in many cases, no surrender was actually made, or as in the case of the purported 1841 surrender, bribery and duress were potential factors.

Other scholars follow Clark in pointing out that Aboriginal title is mandated by Canadian law. Patrick Macklem concludes that whether one prefers law or government action to recognize Aboriginal title, it remains that proprietary power in Canada is unlawfully distributed.⁷⁹⁹ There is some debate as to whether the government or the courts are best suited to re-shape Canadian space according to this imperative. The *RCAP* emphasizes treaty relationships, calling for government action to recognize Aboriginal rights to greater lands and resources, legitimated by nation-to-nation negotiation; and views the courtroom as less effective in dealing with the wide range of issues implicated in Aboriginal title: “a relatively abstract articulation of the ideal of mutual coexistence.”⁸⁰⁰ Others argue that property law should explicitly recognize unjust distributions of land title (based on the legal ‘justification’ of underlying Crown title in Canada, as detailed in Chapter 1) and reallocate it accordingly. Legal discourses have consistently dispossessed Aboriginal peoples: “the legal burden that Aboriginal title placed on the Crown’s underlying interest has never meaningfully checked the exercise of Crown proprietary power, let

⁷⁹⁶ Ibid., 198.

⁷⁹⁷ Ibid., 202.

⁷⁹⁸ Ibid., 204.

⁷⁹⁹ Macklem, “What’s Law Got to Do with it?”

⁸⁰⁰ Ibid., 132.

alone the exercise of the Crown's legislative authority."⁸⁰¹ The relative bargaining power of the parties is a function of the distribution of property rights brought about by legal choice in a long succession of decisions, continuing today each time a court rules on the nature and scope of Aboriginal, Crown, or third-party title. "Indeed, legal framing of disputes between Aboriginal people and the Crown – what makes a political dispute a legal dispute – signals the distributive function of the legal system."⁸⁰² Thus, to view the law as "too blunt an instrument" to address the intricacies of Aboriginal lands and resources is to ignore its long history of defining rights and establishing relative powers; law's implication in distributive justice *requires* it to intervene by allocating proprietary power in ways that oblige the government to act.⁸⁰³ No matter the source of the proposed solutions, it is clear that discursive strategies justified Aboriginal dispossession in the past, and continue the trend today by structuring the 'rule of law' according to Canadian conceptions of property rights.

Canada's existing federal claims processes, which purportedly seek to rectify these spatialized injustices so deeply sedimented into landscapes, are inadequate. Since they are grounded in policy statements with questionable legal status rather than binding legislation, they can be changed on a whim; since Aboriginal people do not have a recognized statutory right to participate in claims processes, they can be left out in the cold with no legal redress.⁸⁰⁴ Furthermore, the current system has the federal government playing both defendant and judge of claims against itself in a blatant conflict of interest. Federal focus on extinguishment of Aboriginal title as a precondition for negotiations causes difficulties, and blurred jurisdictional boundaries are problematic as well, with provinces often refusing to participate.⁸⁰⁵ As Justice Lamer explained in *Delgamuukw*,

separating federal jurisdiction over Indians from jurisdiction over their lands [proved to] have a most unfortunate result – the government vested with primary constitutional responsibility for securing the welfare of Canada's Aboriginal peoples would find itself

⁸⁰¹ Ibid., 134.

⁸⁰² Ibid., 136.

⁸⁰³ Ibid.

⁸⁰⁴ Macklem, *Indigenous difference and the Constitution of Canada*, 269.

⁸⁰⁵ Usher, Tough, and Galois, "Reclaiming the land: aboriginal title, treaty rights and land claims in Canada"; Macklem, *Indigenous difference and the Constitution of Canada*.

unable to safeguard one of the most central of native interests – their interest in their lands.⁸⁰⁶

When new agreements are forged, their success, like that of the old treaties, will depend not only on the words they contain but on the daily practices which interpret and implement them (or not). Aboriginal negotiators of treaties of old thought that they had obtained what they intended; problems developed later in the Crown's unilateral interpretations. Though modern agreements are much more technically complex and codified, the real test will again lie in whether they are actually allowed to do their work of re-shaping Canadian-First Nations landscapes and relationships.⁸⁰⁷ There is doubt as to whether Aboriginal rights, which pose a fundamental challenge to "government's ability to continue to rely on large-scale, corporate resource extraction as a primary economic activity," will ever in fact transform business-as-usual scenarios, or whether these rights will remain largely rhetorical.⁸⁰⁸ But continual sidelining of land claims has economic implications for Canadians as well. As long as First Nations lack sufficient land bases on which to safeguard some measure of economic and governing independence, government spending on top-down programs will be increasingly less effective.⁸⁰⁹

When development threatens to infringe on the rights of Aboriginal resource users, Section 35(1) compels a consultative process, further explicated in *Sparrow* (1990). If a government, either provincial or federal, wishes to hamper Aboriginal or treaty rights, it must prove that it has a valid legislative objective and that it is acting in a manner consistent with the honour of the Crown by consulting with the Aboriginal nations involved.⁸¹⁰ The duty to 'consult and accommodate' that figured so prominently in statements made by Six Nations protesters and negotiators also arises from the glacial pace of land claims settlements. While negotiations occur, land that may well turn out to belong to First Nations continues to be sold to and developed by third parties. Ironically, as Aboriginal land rights are slowly recognized, cumulative environmental impacts and the resulting environmental regulations necessitated by resource harvesting undertaken by settler societies may mean that it will be difficult for Aboriginal peoples to benefit economically

⁸⁰⁶ As cited in Macklem, *Indigenous difference and the Constitution of Canada*, 273

⁸⁰⁷ Usher, "Environment, race, and nation reconsidered."

⁸⁰⁸ Tollefson and Wipond, "Cumulative environmental impacts and aboriginal rights," 389.

⁸⁰⁹ Barsh, "Canada's Aboriginal peoples," 36.

⁸¹⁰ Coyle, *Addressing Aboriginal land and treaty rights*, 28.

from their resources.⁸¹¹ Though Supreme Court rulings such as those of *Delgamuukw* (1997) and *Haida* (2004) clearly state that consultation and accommodation are required, parameters and guidelines have been largely left undefined, as the judges preferred to rely on the ‘Honour of the Crown’ and good faith negotiations. So far, this has meant in many cases, such as Caledonia and Brantford, that the obligation is ignored, marking Canadian landscapes with discursive and physical denial of responsibility and relationships.

A research report generated for the Ipperwash Inquiry⁸¹² pointed out the vacuum of policy in Ontario addressing consultation and accommodation, as well as the lack of recognition of the historical context for Aboriginal claims and the fact that the Aboriginal land claims and rights are based in *Canadian* law and constitution. Further complicating Canadian notions of ‘rule of law,’ almost all of the claims outstanding against the Ontario government involve contraventions of basic legal norms – through fraud, theft, breach of formal agreement, or other offenses – that Canadians take for granted. And as demonstrated at Douglas Creek Estates, ‘jurisdictional’ battles between provincial and federal governments often impede resolution in land claims – additional indications of the differing discourses that First Nations and Canada offer with regard to relationships. In fact, though the federal government stands as the Crown’s representative in relationships with Aboriginal peoples and can enact mechanisms for claims resolutions and offer financial settlements, Canadian structurings of law mean that the province must also be involved in the resolution of land claims, because it has ‘jurisdiction’ over what once were First Nations lands. The Ipperwash report also urged that land claims processes must strengthen relationships between First Nations and the Crown; must be perceived by all parties as fair, preferably by operating outside of elected government; and must protect the interests of the general public.⁸¹³ The report concludes by pointing out that

the federal Specific Claims policy, which applies to most land claims in Ontario, is entitled ‘Outstanding Business.’ The title is perhaps indicative of the governments’ current approach to First Nation claims and treaty rights. It suggests that ascertaining the legal

⁸¹¹ Tollefson and Wipond, “Cumulative environmental impacts and aboriginal rights.”

⁸¹² Coyle, *Addressing Aboriginal land and treaty rights*.

⁸¹³ *Ibid.*, 57.

obligations owed by governments to First Nations is an issue to be addressed by discretionary 'claims' policies.⁸¹⁴

But how to re-shape Canadian space on foundations of recognition? Suggestions for justice for First Nations range from the wide-ranging Ipperwash recommendations to more detailed and sophisticated compensation models,⁸¹⁵ since standard methods of economic evaluation are often ill-suited to addressing diverse values such as spiritual significance, loss of opportunity for cultural practices and ways of managing land, and because distrust of accepting financial recompense for land and resources is common among Aboriginal communities such as Six Nations who emphasize that they seek land bases for the future, not what are often perceived as short-term economic gains. Yet, as David Natcher explains,⁸¹⁶ the duty to consult is often unlawfully delegated by the government to resource developers proposing to work within traditional Aboriginal lands, since industry stands to gain most from development. In turn, developers, buttressed by governments' discourses supporting economic development and 'forward-thinking' over consultation and accommodation, typically believe development to be inevitable, and conflicts such as that of Douglas Creek Estates are the result.

While all agree that it is in industry's best interest to establish amiable relations with Aboriginal communities affected by their activities, industry cannot be expected to act in the interests of Aboriginal communities when such interests often run counter to their own. Thus, by delegating the consultative responsibility to industry, the Canadian government has faltered in its trust relationship to recognize and protect Aboriginal rights, a responsibility entrenched in recent legislation. Therefore, until government is prepared to take a proactive stance in mitigating land use conflicts through an effective and equitable consultative framework one should expect an escalation of litigation and continued Aboriginal discord.⁸¹⁷

As we have seen along the Grand River, municipal and provincial governments' unwillingness to enforce meaningful consultation with Six Nations regarding development on claimed lands has meant that developers are caught in the middle; the reality is that they are simply looking out for their own interests and are following their country's laws in continuing to build. It is Canada's

⁸¹⁴ Ibid., 76.

⁸¹⁵ McDaniels and Trousdale, "Resource compensation and negotiation support in an aboriginal context."

⁸¹⁶ Natcher, "Land use research and the duty to consult."

⁸¹⁷ Ibid., 121.

responsibility to act with Six Nations and other Aboriginal nations on a sovereign-to-sovereign basis. The alternative is socially (and, one could argue, economically and environmentally) unsustainable: continuing conflict between Canada's laws and identity and its on-the-ground actions, and persistent calls for justice from Aboriginal peoples in the form of protests, occupations, and lawsuits. Though re-shaping Canadian landscapes and dialogues will require considerable time, energy, and resources, political will for other daunting projects such as reducing deficits has been mustered by the public. On the other hand, the costs of *not* resolving outstanding land grievances will be high in terms of social and economic⁸¹⁸ costs. Canadian imaginaries claiming justice and the 'rule of law' are at stake.⁸¹⁹

Landscapes of relationships

So the task must be accomplished. But how, given the seemingly intractable differences in perspective? The discourse analysis presented in this thesis has shown that what we say about the world, the claims we stake and the truths we make, are more than just words - they actually shape landscapes, both discursive and material. In Caledonia, groups of people are making competing claims to the land, to the rights to the land, to legitimacy, to sovereignty, to epistemologies and particular visions of justice, to what 'normal' citizenship and society are supposed to look like. Because it is more than a competition over the land itself, this dispute is bigger and broader than it looks at first. And because Canada relies on logics which erase the past and situate the conflict in present, Canadian conceptions of reality, law, and 'normalcy, they continually suppress Six Nations visions and legitimacy.

If neither side acknowledges the other's laws and perspectives – as was clearly illustrated in the discourses constituting the dispute at Caledonia - how can we move forward to shape the landscape together? Clearly, the terms of negotiations must be readdressed. Based on the discourse analysis elucidated in the previous chapters, and supported by arguments put forward from both sides of this dispute, I argue that a fundamental reordering of the relationship between Six Nations and Canada (and between other First Nations and Canada, as desired by

⁸¹⁸ Coffey, *The cost of doing nothing: a call to action*.

⁸¹⁹ Ruby, "Six Nations Confederacy gets keys to historic council house," 75.

those other nations) is imperative. The government of Canada must take the lead, since the business as usual scenario - forcing Six Nations to assert its rights to third party developers – only breeds further mistrust, racism, and fear, and since Canada largely holds the reins of power. Since the country's short leadership terms favour prolonging the status quo in contentious issues, and the claims could possibly be 'settled' without addressing underlying questions of autonomy and nationhood, it appears that the government is not yet ready to change course. Yet, in order for resolutions to be effective, they must be perceived as fair. As outlined in Chapter 3, élites are able to influence public conversations to a remarkable degree; not only governments, but academics and educators, have been crossing First Nations out of both past and future landscapes.⁸²⁰ But these continuing discursive and physical erasures are no longer an option.

We might propose a different story: how might the dispute in Caledonia have turned out if local leaders had immediately voiced support for Six Nations' efforts? Recognition of Henco's very real difficulty and immediate monetary losses would not have been precluded by such a stance. Instead of focusing on an end to the reclamation and alienating protesters with accusations and complaints, leaders could have voiced their knowledge of the Six Nations' outstanding grievances, potentially setting the tone for cooperation and strengthened relationships all along the Grand River. Instead, though government representatives at all three levels have each acknowledged the reality of Six Nations' long wait for justice in one way or another, the focus has always been on ending the occupation, economic losses for Caledonia and other towns subsequently affected by protests, and the illegality of activists' actions. This sends the unmistakeable message to Six Nations *and to the public* that Native claims to justice only matter insofar as they affect the white settler societies around them. This – the need to *make* their grievances matter to society - provides clear motivation for further protest. When Ontario sent its police in on April 20, protesters viewed it as a call to war, not a matter of law enforcement. And it was only after this police action, as I emphasized in Chapter 2, that the barricades went up.

Not only does the Canadian government at all levels hold the balance of the power to define the trajectory of negotiations, it is also, as the dominant society, the party which will have to work

⁸²⁰ Peters, "Aboriginal people and Canadian geography," 45.

hardest to recognize First Nations' distinct epistemologies and ontologies. By way of comparison, it is much easier for Canadians to grasp our cultural uniqueness from Americans than for the reverse to occur; they are more likely to view us as appendages, due to lack of motivation and of exposure to Canadian culture. While distinctions between First Nations and Canadian cultures are far deeper and broader, the analogy holds: it is hardly necessary for the people of Six Nations to learn about the ways that people in Brantford and Caledonia view themselves or their land in terms of property law or economic development. What Six Nations protesters and leaders are demanding in the ongoing protests, work stoppages, and land grievance negotiations along the Grand River is nothing less than recognition of their status as a distinct nation. This does not necessarily imply that all ties to Canada will, or should, be cut. It does, however, have substantial implications for the way that the relationship between Six Nations and Canada will have to be restored, if we are to remain allies and friends, mutually respectful and peaceful, shaping the landscape together.

Part of the problem may lie in the way Canada and Six Nations appear to be talking about the same things, even express similar sentiments on occasion, yet are not truly engaged in dialogue. Satterfield describes the way groups often seem to “talk past” each other “as though the other didn’t exist.”⁸²¹ In the public conversations I investigated, both Canadian and Six Nations representatives talk about the need to adhere to the law: Canada wants the illegal occupation to stop, and Six Nations wants Canada to acknowledge its fraudulent land dealings. They both talk about rights: Six Nations is focused on collective land rights and the entitlement to self-determination, and Canada is concerned about individual property rights. Both claim to be the injured party and the group which has made the largest concessions in negotiations.

Often, First Nations whose claims have been settled still feel as though underlying grievances have not been addressed.⁸²² A new approach to claims processes, then, might involve genuine apologies from the government, as well as assurances that the same mistakes will not be repeated. Discourses emphasizing ‘extinguishment’ or ‘surrender’ of rights should be eliminated, and a serious public education campaign should be embarked upon to assist

⁸²¹ Satterfield, *Anatomy of a conflict*, 7.

⁸²² Coyle, “Claims resolution: a healing process?”

Canadians in recognizing the discrimination practiced against First Nations – for instance, public indignation might be provoked by the facts that First Nations people could not vote until 1960, could not hire lawyers to represent them in claims, and about the often fraudulent treaty processes that shaped Canadian space. With a better sense of these injustices, which I believe would best be explained by the government itself, using concepts (such as those of human rights) familiar to Canadians, public support for First Nations would surely at the very least not decrease. Instead of telling these stories, however, Canada voted against the *Declaration on the Rights of Indigenous People* in 2007, nearly alone (with the company of three other British settler states) against 143 countries, despite recommendations from its own *Royal Commission*, many scholars, politicians, and First Nations leaders. Overarching visions (such as those provided by James Tully and Dale Turner), legal principles (Patrick Macklem and Peter Russell), and even fairly concrete proposals (from the RCAP) have been articulated but disregarded by the governments of Canada in favour of inaction. As the *Commission* explains, trying to preserve the status quo relationship, in which “Aboriginal peoples’ lands and resources were taken from them by the settler society and became the basis for the high standard of living enjoyed by other Canadians over the years,”⁸²³ is futile. Canada is shaping a political landscape virtually guaranteeing that First Nations will feel as if they have no choice but to articulate their demands for territorial sovereignty in uncomfortable ways.

As Celia Haig-Brown and David Nock envision the future:

If Canada wants to justly claim to be a country committed to human rights, then perhaps the irony of acknowledging the shortcomings and calculated transgressions that have been made in our history related to land policies and legislation is the place to begin. From there the possibilities are endless. What if we became a country, like few others, that admitted its failures and frailties and built from there to address them? The continued dismissal of the violation of treaties with Aboriginal peoples and the outright land thefts are beginning to be addressed in the courts and in treaty negotiations and renegotiations across the land.⁸²⁴

⁸²³ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, vol. 2.

⁸²⁴ Haig-Brown and Nock, “Introduction,” 6.

A November 2007 newspaper article focusing on the Commissioner of the Ontario Provincial Police, Julian Fantino, is especially revelatory as to what lies at the heart of the dispute which began in Caledonia.⁸²⁵ Fantino was aware of the significance of Caledonia to Canada as a nation: “I thought that Caledonia was a stand-alone, isolated issue. It’s not. It’s linked to everything else that’s going on in this country [...] I know that people were watching every move we made.” Several reactions to Fantino’s careful approach, reported in the same article, are equally telling as to the priorities of Six Nations. Reclamation spokesperson Hazel Hill expressed appreciation for the way “he just came to introduce himself. It was very friendly.” She explained that Fantino seems to understand the importance of respect, an indicator of healthy intergovernmental relationships. Janie Jamieson, on the other hand, was mistrustful of Canadian law enforcement, still mindful of the April 20, 2006 raid on Kanonhstaton: “I don’t work with any of the police forces. They haven’t acted honourably. They haven’t acted honestly. And they sure as hell haven’t looked out for our safety.” Finally, Aaron Detlor, lawyer for the Haudenosaunee Development Institute, believes that “the role of the police in Caledonia right now is to make sure they keep the peace where possible and be observers. And I don’t think that there’s two-tiered justice whatsoever. But we do have two legal systems: Haudenosaunee and Canadian.”

Andrew Woolford⁸²⁶ explains that several dilemmas of intercultural communication can plague treaty processes. Most crucially, while ‘respect’ for cultural difference is discursively asserted, the hegemonic cultural-valuational model which saw this respect initially denied lives on. By paying lip-service to respect for Others, the ‘multiculturalist’ can maintain a privileged position, making real reconciliation unattainable. Woolford calls for First Nations to be treated as historically legitimate nations and for governments to make genuine apologies without thought to the legal consequences, as these will likely have more positive impacts on relationships than well-timed speeches delivered at risk-free moments such as the signing of agreements. While both sides seek material and symbolic ‘certainty’ in agreements, Woolford sees important distinctions. In material terms, non-Aboriginal people seek safety for jobs and homes, while Aboriginal people want opportunities for economic security and community sustainability. Symbolic fulfillment for non-Aboriginal Canadians will come in the form of the feeling that things

⁸²⁵ Clairmont, “Focus on Fantino: OPP chief says they are peacekeepers not problem-solvers in Caledonia,” A6.

⁸²⁶ Woolford, *Between justice and certainty*.

have been made right, while Aboriginal people seek recognition of unique identities. Aboriginal people tend to eschew discourses of ‘finality’ in favour of ‘predictability’, which reflects mutual understandings of treaty responsibilities, but is not weighted by demeaning concepts of ‘extinguishment.’ First Nations have reason to mistrust non-Aboriginal governments’ intentions to live up to agreements, are focused on ongoing relationships, and do not want to bind future generations to treaties which may go bad. Non-Aboriginal people seek final settlements out of fear that First Nations will continue to seek ever-greater powers and privileges.

The issues explicated above, regarding land and governance conflicts in British Columbia, have strong parallels – contour lines, as Cindi Katz would say – connecting to the ‘ontology’ of Caledonia, as we have seen in Chapters 2 and 3. The discourses publicly put forward over and over again, both in Caledonia and in other contexts,⁸²⁷ emphasize that the ongoing erasure of history and relationships perpetuate perceptions of injustice. Successful agreements and peaceful landscapes will depend on explicit recognition of past and ongoing mistakes as well as distinct nationhood, as Six Nations has so often emphasized. These basic necessities for honest and healthy relationships hold across Canada and likely across the globe. As Rossiter and Wood describe the state of affairs in British Columbia,

The fantastic topographies that the government and its supporters invoke [...] rely on a post-political conception of the region that is flawed by its belief in the ‘end of history’ and geography. As Katz reminds us, wide-ranging political, economic and social relations are sedimented in space. To move forward without excavating and facing up to each constitutive layer is, indeed, to live within a fantasy.⁸²⁸

David Usher’s prescription for redressing injustices and working towards just futures requires explicitly admitting manifold understandings of the history and geography of Canada and the power relationships sedimented within them. He proposes a countertopography to challenge the histories of exclusion that have shaped Canadian terrain as we know it:

We now know that there are diverse foundations and concepts of power and control in the political space we call Canada. We are more willing to accept the idea that jurisdictions and

⁸²⁷ Rossiter and Wood, “Fantastic topographies.”

⁸²⁸ *Ibid.*, 365.

boundaries need not be mutually exclusive, but could accommodate shared interests. We are learning to accept this diversity and to recognise it as a basis on which people can come together for the common good.⁸²⁹

The point is that the past should inform visions for the future. James Henderson, describing a constitutional vision which calls to mind Erin Manning's search for unorthodox versions of nationhood, explains that

The incomprehensible nature of constitutional reforms requires Canadians to undertake a quest of understanding. They need to dream alternative visions. Their contrived response to these constitutional commands seeks to avoid the apparent: there is a new order possible, unknown to colonial thought or not known well enough. Canadians have a responsibility to discover the new constitutional order of Canada. They have to discover how their colonial contexts have been transformed into postcolonial government.⁸³⁰

John Borrows,⁸³¹ too, spells out the need for reconciliation even when Aboriginal and non-Aboriginal interests seem less than compatible, and calls for new relationships which come to terms with simultaneous traditionality, modernity, and post-modernity aspects of Aboriginal identity.⁸³² Though recognition of Aboriginal rights to shape Canadian landscapes will cause significant disruption, it will set us on a path to a more just and peaceful future.⁸³³ Borrows calls for a continuation and revitalization of the original federal relationship as agreed to in treaties, wampum, and presents, partially expressed in the written text of the Constitution and the Royal Proclamation, but more fully explicated in the oral and documentary law and history that underlies Canada's constitutional text.⁸³⁴ In other words, he calls for recognition of another set of discourses which underlay Canadian-First Nations relationships, but which were discarded in favour of 'jurisdiction' through the Indian Act and other justificatory instruments. He cites Kymlicka and Norman, who point out that "it is clearly unhelpful to talk as if there is a zero-sum relationship between minority rights and citizenship; as if every gain in the direction of accommodating diversity comes at the expense of promoting citizenship."⁸³⁵ In fact, he says,

⁸²⁹ Usher, "Environment, race, and nation reconsidered," 381.

⁸³⁰ Henderson, "Postcolonial ledger drawing: legal reform," 169.

⁸³¹ Borrows, *Recovering Canada*.

⁸³² *Ibid.*, 776.

⁸³³ *Ibid.*, 115.

⁸³⁴ *Ibid.*, 127.

⁸³⁵ Kymlicka and Norman, "Citizenship in culturally diverse societies," 39, as cited in Borrows 2002, 156.

when Aboriginal people no longer feel as though their societies are threatened, they may become more willing to embrace relationships with others in Canada (though this should not be expected or demanded); likewise, when non-Aboriginal peoples no longer worry that their resources, livelihoods, and rights are in jeopardy when expanded terms of Aboriginal citizenship are on the table, rights secured through such interdependence may be reinforced. We began in Chapter 1 with a description of intergovernmental relationships marked by peace: first within the Haudenosaunee Confederacy, and then in early Haudenosaunee-settler relationships. Though these were later abandoned in favour of colonial law and discourses, in these relations of interdependence, autonomy, and respect lay possibilities for landscapes of justice.

The *Royal Commission on Aboriginal Peoples* envisions sustainable relationships based on four pillars of treaties, governance, lands and resources, and economic development. Though the treaty process has been plagued by historic failures, some potential for future successes is augured by the *Constitution Act, 1982* as well as principles enunciated recently in the courts. The *Commission* shares Henderson's view that treaties have strong foundations in the British legal system, comparing them to the terms of union under which provinces entered Confederation. "The fulfillment of the spirit and intent of the treaties is a fundamental test of the honour of the Crown and of Canada. Their non-fulfillment casts a shadow over Canada's place of respect in the family of nations."⁸³⁶ The Supreme Court has recently, and quite consistently, although slowly and at great cost to Aboriginal people, made it clear that Aboriginal and treaty rights are part of the legal system that defines (a new) 'rule of law' in Canada, though built on a jurisprudential foundation that largely ignored Aboriginal perspectives. As a commitment to a new nation-to-nation treaty process, the *Commission* recommends issuing a new *Royal Proclamation* which would, like the *Proclamation* of 1763, deliver fundamental principles for treaty-making, and which could also serve to express Canada's regret for injuries of the past. To give it legal effect, it would be accompanied by legislation: a new way for law to shape Canadian space.

The *Commission's* specific visions for spaces recognizing Aboriginal autonomy call for three orders of government: Aboriginal, provincial, and federal. Based on the *Commission's* discussions with

⁸³⁶ Royal Commission on Aboriginal Peoples, *Royal Commission Report on Aboriginal Peoples*, vol. 2.

Aboriginal leaders, it concludes that many concepts of Aboriginal governance include the nucleus of territorial jurisdiction, though there is a good deal of variety in the particular arrangements envisaged. Many First Nations communities expressed the conviction that outstanding land issues must be resolved before jurisdictional issues can be satisfactorily addressed; in Caledonia, as detailed previously, these issues are cited simultaneously by Six Nations, with sovereignty and land rights inseparably intertwined. The Report of the RCAP includes hundreds of pages of visions regarding areas of Aboriginal jurisdiction, how differences and overlaps between Canadian and Aboriginal law might be resolved, and various possibilities for the structures of possible Aboriginal governments, including those based on territory, those designed with the needs of urban Aboriginal people in mind, and public government models (such as Nunavut). It recommends replacing the Department of Indian and Northern Development with a Ministry of Aboriginal Relations, as well as an Aboriginal Parliament which would provide advice to the House of Commons and the Senate as an additional means of representing Aboriginal peoples within Canadian federalism. Finally, the *Commission* recommended that Canada enact legislation affirming its obligations under international human rights instruments, recognize Aboriginal peoples' rights to remedy in Canadian courts for breach of these international commitments, and support the Declaration of the Rights of Indigenous Peoples as it was being considered by the United Nations.

The *Commission's* views on the potential for treaty relationships to shape Canadian space have been both preceded and followed by legal scholars sharing the basic concepts of its vision. Treaties should be seen as binding constitutional documents reflecting their intended historic significance in setting out the relationship between First Nations and settlers as to the use and enjoyment of land and in forming Canada as we know it.⁸³⁷ The decolonization of Canadian constitutional law through the recognition of Aboriginal sovereignty need not interpret Section 35(1) to exclude all federal regulatory power; instead, Parliamentary sovereignty and the rule of law must *include* Aboriginal laws.⁸³⁸ If worlds are structured through words and discourses, how might these changes mould new landscapes?

⁸³⁷ Macklem, "First Nations self-government and the borders of the Canadian legal imagination," 443.

⁸³⁸ McNeil, "Envisaging constitutional spaces for Aboriginal governments."

At more local scales, proposals for increased recognition of Aboriginal rights to shape Canadian space vary widely. Some explicitly address Canadian legal obligations to consult and accommodate where Aboriginal interests are affected, and others appear to take these for granted, calling for planning to involve indigenous perspectives so that “justice might be won through state action and not in spite of it.”⁸³⁹ Despite acknowledging the power of developmentalism as an ideology and the acrimonious nature of tensions between Indigenous peoples and modern nation states regarding rights to land and natural resources, Lane calls for ‘community-based planning’ rather than prescriptive agendas. In my view, summons to community-based planning do not provide a motivation for local non-Indigenous communities to participate in cooperative planning processes if broader state regulations do not require that they do so. Co-management – a sharing of responsibility – is also identified as a possible mechanism for integrating Aboriginal and state systems of resource management; some call for the right of Aboriginal people to co-management of natural resources to be entrenched in the Constitution,⁸⁴⁰ and others hail it as a response to repeated Aboriginal demands for self-determination.⁸⁴¹ Others discuss the potential and reality of social entrepreneurship as an approach to economic development that is capable of recognizing land as both the vital ‘place’ of the nation and the foundation upon which indigenous communities can rebuild their economies, thus meeting several objectives at once.⁸⁴²

In my view, the Six Nations historical and geographical context is unique in ways that *currently* make it more difficult to shape local spaces with consideration for Haudenosaunee economies. The fertility and desirability of the Grand River lands, as related previously, made settlement rapid; Six Nations is now located in the most populated area of Canada, the Golden Horseshoe, and development of nearby towns and municipalities shows no signs of slowing down – in fact, as explained earlier, it is now mandated in many places by Ontario’s *Places to Grow* Act. However, if the nation’s land grievances are resolved in such a way as to restore even part of its original land

⁸³⁹ Lane, “The role of planning in achieving indigenous land justice and community goals,” 386.

⁸⁴⁰ Notzke, “A new perspective in Aboriginal natural resource management: co-management.”

⁸⁴¹ Wilson, “Native peoples and the management of natural resources in the Pacific northwest: a comparative assessment.”

⁸⁴² Anderson, Dana, and Dana, “Indigenous land rights, entrepreneurship, and economic development in Canada.”

base in the Haldimand Tract or to obtain non-contiguous lands to increase the size of the Six Nations Territory, the potential for a strong collective economy appears enormous, given Six Nations' large, growing, and educated population and central location. Many other First Nations in Canada are caught in a different bind: with less developed and desirable lands, the potential for even relative economic autonomy in isolated locations is much more limited, even though traditional economies have also been made very difficult to pursue in modern contexts.

Of course, I am getting ahead of myself here. The settlement of outstanding land grievances and the (re)acquisition of its own Places to Grow - and here I refer to both geographical and political spaces - are first-order necessities for Six Nations. Assimilation into surrounding Canada is not a realistic option. Given the persistence of Haudenosaunee political traditions and the momentum gained in recent years through the reclamation effort, language reinforcement, increased recognition of the Confederacy Council and efforts at cooperation between the Confederacy and Band Councils, it will not occur. The ability of the Haudenosaunee to actively adapt and change social and organizational structures to shape their collective future⁸⁴³ will continue. It is up to the Crown to decide whether to recognize its relationship with the Haudenosaunee now or later, as it seems unlikely that Six Nations will ever relinquish its sovereignty or cease to assert its rights to justice regarding its land grievances.

There are signs of change. A major road expressway planned since the 1980s in Hamilton, located just north of Caledonia, was protested by activists from both within and outside Six Nations. Non-native protesters hoped that Six Nations' land rights might hold sway against the environmentally damaging development. Though the construction of the highway went ahead, Susan Hill⁸⁴⁴ points out that agreements negotiated between the Haudenosaunee and the City of Hamilton made possible by focusing on cooperation rather than confrontation "have resulted in a unique partnership (and series of partnerships) based upon Haudenosaunee ethics and treaty

⁸⁴³ Doxtator, "What happened to the Iroquois clans?," 326; Alcantara, "Certificates of possession and First Nations housing: a case study of the Six Nations housing program."

⁸⁴⁴ Susan Hill, "'Traveling down the river of life together in peace and friendship, forever': Haudenosaunee land ethics and treaty agreements as the basis for restructuring the relationship with the British Crown", in *Lighting the eighth fire: the liberation, resurgence and protection of Indigenous Nations*, ed. Leanne Simpson (Winnipeg: Arbeiter Ring Publishing, 2008).

principles”⁸⁴⁵ including articulations of Haudenosaunee land ethics and protection for as much land as possible. The agreement “clearly delineates the position of Hamilton as a government of Canada bound by the ancient covenants of the Crown. Of extreme historical significance, this agreement marked the first time a government of Canada had recognized the governing authority of the Haudenosaunee Confederacy Council since 1924,”⁸⁴⁶ acknowledging challenges and opportunities for accommodation and solutions that respect the future generations. The current negotiations in Caledonia are an opportunity for recognition and respect, and an important step was taken when the government recognized the authority of the Confederacy Council as the negotiating body.

Instead of continuing to erase historical, geographical, and cultural realities, Canada must acknowledge that the landscapes of the Grand River have been seeded with racism, fraud, and denial. In order to further *new* Canadian space-shaping projects and form landscapes of recognition and respect, Hill asks,

So as the governments of Canada and the Haudenosaunee Grand Council continue down this river, what exists in their shared history to use as a base for reconstructing healthy relationships between the Haudenosaunee and the Crown? Where might this river lead us if we travel it together in peace and friendship? What will our shared forever look like?⁸⁴⁷

The public discourses elaborated in this dispute in Caledonia provide lenses through which to view colonial and space-making projects operating across time and distance. Canada has the opportunity to change the trajectory of this story by shaping political and geographical spaces with honesty and respect, addressing old and new injustices, and acknowledging the joint imperatives of jurisdictional and territorial spaces for First Nations. These demands can be ignored only for so long. In envisioning the first chapters of this possible new story, a future marked by the peace, order, and good government and true multiculturalism to which Canadians aspire, comes into view.

⁸⁴⁵ Ibid., 33.

⁸⁴⁶ Ibid., 34.

⁸⁴⁷ Ibid., 34.

Chapter Five

SUMMING UP

I began this research hoping to answer the question, “How have cultural values regarding land as a resource been acted upon and publicly elucidated in the Caledonia land dispute communications and negotiations?” I wanted to find out how this conflict over land began, why it appeared that it would not be resolved quickly, and what it was really all about. I felt that it must have something to do with ‘culture.’ Oh boy, does it ever - though not in the somewhat simplistic way I anticipated. As the discursive analysis I undertook revealed, assertions regarding ‘culture’ and ‘rights’ stake claims to particular constructions of the world. What might appear to be a ‘culture clash’ or a dispute over land is in fact both at the same time, with questions of legitimacy, nationhood, justice, and law all mixed up in between. Epistemologies shape ontologies, and categorizations of the world work together to dictate 'landscapes' according to certain logics. We can see the workings of these competing frameworks in Caledonia, and we know that larger and deeper cultural imaginaries underlie them. In examining the discourses constituting, and constituted by, the dispute in Caledonia, and in paying attention to the Canadian spaces that have resulted from processes such as these, we are able to learn more about the unsustainable inequalities embedded in Canadian-First Nations relationships.

At its most visible level, this dispute is about ownership and rights to a particular patch of land in Caledonia, Ontario called Douglas Creek Estates, a halfway built neighbourhood of new houses in the rapidly growing town. The solution seems simple enough: check the paperwork and problem solved. But news releases, public statements, letters, meeting minutes, information pamphlets, and other texts circulated by those involved quickly revealed multiple layers of dialogue, debates nested and entangled. The Grand River Haudenosaunee had already been contesting the purported surrender of this land for a hundred and fifty years. Even the federal land claims process finally established in the 1970s proved inadequate and uncommitted to actually addressing the land grievances of Six Nations and other Original People. Though surprisingly little known to the surrounding settler communities, this protest and occupation of land in Caledonia is merely the latest assertion of Six Nations’ land rights.

And the public conversations between Canada and Six Nations which constitute the dispute quickly morphed into double-edged debates over the 'rule of law' and the right to protest. These provided opportunities for Haudenosaunee representatives to point out that as a nation which has never ceded sovereignty in word or in battle, Six Nations has its own system of law, and that Canada is also breaking its own law in continuing to develop on contested lands and failing to attend to longstanding land claims. However, making claims such as 'the law does not apply to us' to colonial societies largely ignorant of the Aboriginal foundations of their country proved problematic. Indeed, failures to address Six Nations' land rights issues are reflective of continuing colonial policy favouring settlers over natives. As First Nations allies became less necessary, British-Canadian law and society were gradually formed in ways which ignored initial treaties and relationships built around reciprocity and respect. The physical landscape of the Grand River was shaped according to settler norms of development, pushing Six Nations from their settled villages along the river onto an area of land known today as an Indian Reserve. In a legal framework which premises underlying Crown sovereignty and the illegitimacy of Haudenosaunee law, how can Six Nations' land rights be fairly addressed?

At the heart of the dispute, then, is a much broader and deeper debate about identity and nationhood. Are the persons physically occupying the land in Caledonia protesters or criminals? Is the Confederacy Council the legitimate governing body of a still-sovereign nation or a cultural relic which must be pandered to as a matter of political expediency? Is Canada a multicultural state of hardworking and honest immigrants or a society built around erasure of the people whose territory it now occupies? Do individualistic capitalist economies reflect the demands of reality or are they deliberately chosen systems of managing land and resources to which alternatives exist? And most importantly, who gets to decide, and why?

The public discourses constituting this dispute thus expose ongoing historical erasures crucial to Canadian colonial and space-making projects. The narratives presented by Six Nations and by Canada reveal fundamental differences in the way the land is viewed as a resource and as a foundational prerequisite for nationhood. The story of the land and the identities embedded in it - both discursively and physically - exposes crucial dishonesties in Canada's national persona and

calls for a renewal of ancient relationships between the peoples who must find a way to shape the landscape together.

The story told by Six Nations in this dispute in Caledonia is one in which land figures prominently as a spiritual entity intensely bound to Haudenosaunee law, identity, and international diplomacy, and is to be protected for future generations. Collective land ownership and societal rights are tied together, in turn fastened to sovereignty and nationhood. Six Nations' discourses repeatedly emphasize the ways in which rights to the land have been eroded and ignored as the Covenant Chain alliance relationship was discarded by British and Canadian governments. The reclamation of Kanonhstaton, 'the protected place,' has catalyzed ongoing political dialogues within Six Nations regarding governance structures as well as environmental and economic visions for the territory. Protest and negotiation spokespersons underscore the need to view the story of the Grand River lands within their larger contexts of colonial history and not as black-and-white questions of documented 'facts' written and controlled by the colonial government.

Six Nations activists and representatives utilize a variety of strategies to publicly articulate their views. Discursive approaches range from utilization of both Six Nations and mainstream media through interviews and press releases, letters written to various government officials at all levels; informal newsletters disseminated widely over e-mail and Internet; public signage; and radio and video documentaries. Statements also manifested physically in open protest and occupation of the land by bodies, barricades, and flags, removal of half-built homes, the use of wampum and the wearing of traditional ceremonial dress. Spokespersons often negotiated the swirling waters of identity and activism by articulating assertions for land, spirituality, and sovereignty in language and symbols to which surrounding societies can relate. References to the imposition of the Band Council in 1924, utilization of liberal society's 'rights' discourse, reminding Canadians of Six Nations' alliance in war, pointing out the need for Haudenosaunee Places to Grow, and accessing societal concerns about environmental degradation are some of the ways that Six Nations' discourses found 'common ground' with mainstream understandings. However, some differences appear too fundamental to be up for discursive re-articulation in the name of cross-cultural communication, including the spiritual importance of land, differing ontologies and epistemologies which categorize entities, ways of knowing, time, and history according to

Haudenosaunee thought systems, and the continuing existence and relevance of Haudenosaunee law.

Representatives for Canada in this dispute offered a public narrative highlighting patience, tolerance, and the primacy of business interests and Canadian property law. Land is individually owned and serves as a site for orderly development and economic growth; landscapes are to be managed along with populations to accomplish these priorities. Positive contemporary and future relationships between Six Nations and surrounding communities are emphasized over historical treaties between the Crown and the Haudenosaunee. Canada acknowledges the need to address outstanding land claims, focusing on the ownership of disputed land as indicated by documentation kept by Indian Affairs. The Haudenosaunee of Six Nations are presented as part of Canadian multiculturalism with special rights, not as a people with legitimate claims to nationhood.

Lessons learned the hard way at Ipperwash and Oka resulted in discursively diplomatic techniques re-framing Six Nations' demands as vague 'issues' which have regrettably little relevance to the modern world of racelessness and liberal universalities. Re-presenting the dispute as one of 'rule of law' and property ownership rather than one encompassing crucial issues of constitutional rights and territorial jurisdiction served to criminalize activists and trivialize the Confederacy Council. Focusing on the economic hardships of the developers and Caledonians portrayed the reclamation as a drain on government coffers, like native people themselves. The end goal of societal 'normalcy' offers up images of tidy neighbourhoods accepting the status quo of Canadian peace, order, and good government and ignores racist realities and the ways in which Six Nations' routines have been denied and suppressed. Claims to intercultural dialogue under the auspices of formal negotiation frameworks are belied by refusals to acknowledge the legitimacy of Haudenosaunee thought frameworks and histories. Physically, Canadian views manifested in the failed attempt to 'remove' the protesters from the disputed land, marking it as actual territorial battle-ground. Provincial police function as tangible materializations of Canadian law but complicate dichotomies by directing attention towards aggressive non-Natives protesting the protest, and the *Places to Grow* legislation shapes Grand River landscapes according to Canadian development prerogatives.

So how is this dispute, ostensibly about land, really about 'culture'? It is nothing less than a clashing of master-narratives tying land to polity, nationhood, and the right to shape the future. As such, it is contoured to a global topography of efforts to re-contextualize rights to self-determination as expressed through the management of lands and resources from Western hegemonic norms to alternative visions. The Haudenosaunee of Six Nations on the Grand River Territory are not the only Original People in Canada or in North America to challenge ongoing colonialism, assimilation, and historical erasures, nor are the Aboriginal people of Turtle Island unique in this work. The fact that the openly racist and colonial discourses which originally justified Western supremacy and sovereignty have been refashioned into liberal economic discourses prescribing undifferentiated universal progress (according to Euro-American norms) does not make these conversations any less hegemonic, only less candid and more difficult to challenge. Canadian imaginaries of normalcy and order prevent us from acknowledging racialized attitudes and legislation; these erasures are continuing obstacles to decolonization.

Discourse analysis is an explicitly political project. I aimed to demonstrate the linkages between discourses, histories, and identities as these stories are told and as they are inscribed on landscapes and polities, reflective of broader grapplings with identity. 'Ontopology': how what we know and where we know it are connected. Along the way, I developed ideas as to whether Six Nations and Canada could have expressed their viewpoints in ways that could perhaps minimize conflict, speed reconciliation, and mobilize public support for fair resolution. I also have notions about the ways that a just Grand River landscape might be shaped for all who have staked claim to it. All of these concepts are inescapably shaped by what I consider my deeply Canadian worldviews. Though many researchers, theorists, and philosophers before me have argued for new ways of shaping Canadian-First Nations relationships, this thesis sought to demonstrate how this dispute over land in Caledonia re-produces broader and deeper conflicts over history and the right to tell it. Inequalities are literally built into the land: Indian Reserve 40 hemmed in by settler societies all around.

I do not intend to present the Haudenosaunee as flawless heroes in this counter-story, Canada as malevolent villains, nor all Canadian-First Nations relationships as entirely negative. However,

the inheritance of cultural imaginaries predicated on colonial assumptions, Indian Act legislation, and racialized interactions has shaped a Canada in which First Nations' continuing cultural difference has resulted in government attempts to alternately control, ignore, and valorize. These are all unworkable and unrealistic attitudes. In telling this story, in calling attention to the shifty ways in which hegemonic imaginaries and power relations snuck into the discourses surrounding this dispute over land, I point out that changing the trajectory of Canadian relationships with First Peoples will take conscious effort. However, we already have the constitutional and legal tools at our disposal to formalize new relationships. Section 35(1) formalizes Aboriginal and treaty rights, and numerous Supreme Court rulings have directed not only consultation and accommodation with First Nations in questions of land rights, but also call for negotiations rather than the escalation of tension characteristic of litigated solutions which create winners and losers. The *Royal Commission on Aboriginal Peoples* provided stunningly detailed visions for ways that Aboriginal sovereignty and nationhood could be recognized without destroying currently healthy aspects of relationships between Canadians and First Nations people.

To many people living within Canadian borders, this is a country of peaceful, humorous, and harmonious diversity built by immigrants seeking better lives for themselves. That has largely been my 'reality.' To others sharing this geographical area but shut out of its political spaces, 'reality' has meant a state characterized by essentially mono-cultural Euro-American identities dictated by colonizers defining better lives for other people. These multiple realities are both true and false, and plenty of physical and discursive space is taken up by the no-man's land in between. If Six Nations is to have its fair shake at justice in a society that claims integrity, then cultural, historical, and national difference must be saluted and honesty must determine how we shape the land together. Though I make no claim to rendering the intricacies of law and Constitution which could design a shared sustainable future recognizing multiple sovereignties in Canada - our shared village, our *Kanata* - surely this is possible. Perhaps we could look to the Confederacy formed under the Tree of Peace for insight.

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Appendix A

KEY PERSONS

Barrett, Toby	(Conservative, opposition) Member of Provincial Parliament (MPP) for Haldimand-Norfolk riding 1995 – present
Boniface, Gwen	Ontario Provincial Police Commissioner until resignation October 2006; succeeded by Julian Fantino
Boyko, Lorne	Haldimand County Councillor, Ward 6 (Dunnville, Canborough)
Bryant, Michael	(Liberal) Ontario Minister of Aboriginal Affairs appointed Oct 30, 2007
Coolican, Murray	Succeeded Jane Stewart as principal Ontario representative at negotiations May 7, 2007; succeeded by Tom Molloy September 2008
Coyle, Michael:	Federal fact-finder appointed March 24, 2006; released report April 7, 2006
Crombie, David	Liaison between non-Aboriginal Caledonia community and negotiation table appointed Sept 15, 2007
Detlor, Aaron	Lawyer and spokesperson for Haudenosaunee Development Institute
Doering, Ronald	Assistant federal negotiator to Barbara McDougall; later succeeded McDougall as principal negotiator
Fantino, Julian	Ontario Provincial Police Commissioner Oct 2006 - present
Finley, Diane	(Conservative) Member of Parliament for Haldimand-Norfolk riding, including Caledonia (adjacent to Six Nations Territory)
Flanagan, Anne-Marie	Spokesperson for David Ramsay
General, David	Six Nations elected Band Council chief until November 21, 2007; succeeded by Bill Montour
Grice, Craig	Haldimand County Councillor, Ward 3 (Caledonia, parts of Oneida and Seneca)

Hill, Hazel	Principal spokesperson for protesters at site; representative for Six Nations at Lands side table in negotiations; Interim director for Haudenosaunee Development Institute
Hill, Leroy	Cayuga Bear Clan sub-chief (Hohahe:s), one of Confederacy Council's main representatives and spokespersons at negotiations
Jamieson, Janie	Initial reclamation leader along with Dawn Smith
Levac, Dave	(Liberal) Member of Provincial Parliament (MPP) for Brant riding (including Six Nations) 1999 - present
MacNaughton, Allen	Mohawk chief (Tekarihoken), Confederacy Council's main representative and spokesperson at negotiations
Marshall, David	Ontario Superior Court Justice; issued numerous injunctions and court orders against protesters but eventually overruled by Ontario Court of Appeal
McDougall, Barbara	Main federal negotiator until replaced by Ron Doering
McGuinty, Dalton	Premier of Ontario 2003 - present
Molloy, Tom	Principal Ontario representative in negotiations, appointed July 18, 2008 to replace Murray Coolican
Montour, Bill	Six Nations elected Band Council chief beginning November 21, 2007
Montour, Ruby	Dedicated and vocal protester in Caledonia and Brantford
Monture, Phil	Principal Six Nations land claims researcher and representative at negotiations
Peterson, David	Former Ontario Premier appointed April 30, 2006 to help resolve standoff; stepped down June 14, 2006
Powless, Clyde	Frequent spokesperson for protesters at DCE site
Prentice, Jim	(Conservative) Federal Minister of Indian Affairs and Northern Development until August 14, 2007; succeeded by Chuck Strahl
Ramsay, David	(Liberal) Ontario Minister of Aboriginal Affairs until October 2007; succeeded by Michael Bryant

Sloat, Buck	Haldimand County Councillor, Ward 2 (Cayuga, Rainham)
Smith, Dawn	Initial reclamation leader along with Janie Jamieson
St. Amand, Lloyd	(Liberal, opposition) Member of Parliament (MP) for Brant riding (including Six Nations) 2004 - present
Stewart, Jane	Principal Ontario negotiator at talks until May 2007; succeeded by Murray Coolican
Strahl, Chuck	(Conservative) Minister of Indian and Northern Affairs August 14, 2007 – present
Trainer, Marie	Haldimand County Mayor

Appendix B

TIMELINE OF EVENTS

Jun 18/87	Hamilton-Port Dover Plank Rd. claim submitted by Six Nations to Canada
1992	Henco Industries (development company) purchases land including future Douglas Creek Estates (DCE)
Dec 94	Six Nations serves notice of action served on Canada and Ontario demanding accounting for all sale and lease money
Sep 14/04	Six Nations, Canada, and Ontario agree to explore potential for out of court settlement
Jun 14/05	Ontario passes <i>Places to Grow</i> legislation slating areas in Haldimand Tract for intensified development
Oct 25/05	Day-long shutdown of DCE construction by Six Nations Land Claims Awareness Group (LCAG), led by Dawn Smith and Janie Jamieson
Nov 16/05	LCAG hands out information pamphlets to 3,000 drivers on highway bypass near DCE
Feb 28/06	Construction at DCE is halted; occupation of site begins
Mar 5/06	Henco Industries obtains interim injunction ordering protesters to remove barricades and allow construction to resume; protesters ignore injunction
Mar 16/06	Ontario Superior Court Justice David Marshall sets March 22 deadline for protesters to leave site in order to avoid arrest for contempt of court
Mar 24/06	First federal response to protest: appointment of Michael Coyle as 'fact-finder'
Mar 27/06	Confederacy Council officially states support for reclamation
Apr 17/06	Elected Band Councillors vote to designate Confederacy Council as lead negotiators
Apr 20/06	OPP officers raid protest site at 4:30 a.m. but withdraw after about four hours when masses of Six Nations and other supporters arrive in support; in response, protesters set fires and erect blockades on Argyle Street, Highway 6 bypass and CN rail line; 16 protesters arrested but later released

- Apr 22/06** Representatives from Six Nations, Canada, and Ontario agree to appoint principal representatives within two weeks for negotiations to resolve the DCE/Plank Road claim
- Apr 24/06** Hundreds of Caledonia residents gather at Argyle Street South blockade to vent frustration over dispute; OPP officers form police line between crowd and protesters
- Apr 25/06** Haldimand County Mayor Marie Trainer is taken to task for racist comments regarding Six Nations members
- Apr 29/06** Former Ontario Premier David Peterson is appointed by the Ontario government to help resolve the standoff
- May 3/06** Barbara McDougall and Ron Doering appointed as federal representatives, Jane Stewart as provincial representative in negotiations
- May 16/06** Part of Argyle St. barrier is removed by protesters
- May 17/06** Ontario government imposes moratorium on development at DCE
- May 19/06** Some Caledonia residents set up their own blockade across Highway 6 to prevent protesters from reaching DCE
- May 22/06** Violent clashes between large crowds of protesters and residents on Victoria Day; attempt by protesters to remove Argyle Street barricade is aborted; act of vandalism on power transformer blacks out much of Caledonia and Six Nations; Haldimand County Council declares state of emergency
- May 23/06** Argyle Street South reopened after protesters remove barricade; OPP clear away remaining Caledonia protesters
- May 24/06** Power is restored to most of area by this time
- May 30/06** Caledonia's Emergency Financial Assistance Program commences
- Jun 8/06** Mayor Trainer lifts state of emergency
- Jun 9/06** Hamilton CH-TV camera operator is taken to hospital after scuffle with protesters who confiscated a camera; additional clashes between protesters and Caledonians occur in parking lot adjacent to DCE
- Jun 12/06** Ontario refuses to attend negotiations because of CH-TV incident

Jun 13/06	Hwy 6 barrier removed; Premier McGuinty says Ontario will return to negotiations
Jun 14/06	David Peterson leaves talks
Jun 15/06	Negotiations resume due to removal of barricades
Jun 16/06	Ontario government signs agreement in principle to purchase DCE land from Henco Industries, announces additional homeowner and business assistance funding; Ontario releases <i>Growth Plan for the Greater Golden Horseshoe</i> , pursuant to <i>Places to Grow</i> legislation of one year previous
Jun 22/06	Ontario agrees to pay Henco Industries \$12.3 million for DCE land; amount is later amended to \$15.8 million for land and compensation, plus \$4 million to other builders with plans for the site; MacNaughton, McDougall, and Stewart sign 'Negotiation Framework' agreeing to negotiations according to Covenant Chain and Two Row Wampum
Jul 11/06	Protesters remove barricade blocking entrance to DCE site
Jul 27/06	Creation of Archaeology and Appearance, DCE Plank Road Lands, Consultation Issues, and Education Side Tables to assist Main Table in negotiations
Aug 7/06	Further altercations between protesters and Caledonians
Aug 8/06	Superior Court Justice David Marshall tells Ontario to halt negotiations until court order to remove the native occupiers from the site is enforced
Aug 11/06	Government of Ontario announces that it will appeal Marshall's ruling at the Court of Appeal for Ontario
Aug 25/06	Ontario Court of Appeal rules that protesters can continue to occupy DCE site; negotiations subsequently continue
Aug 30/06	Three protesters hurt in fire in unfinished house on Douglas Creek Estates. Premier Dalton McGuinty says he does not want protesters to settle in for the winter
Oct 15/06	About 400 attend 'March for Freedom' rally organized near DCE by Gary McHale who called for 20,000 to attend; rally condemned in advance by various Canadian politicians; about 750 supporters attended Potluck for Peace organized simultaneously by protesters at Kanonhstaton

Oct 18/07	Ontario commits to hold off developing provincially held lands to the south of Six Nations Territory
Oct 20/06	Ron Doering tells a Caledonia meeting that Ottawa has informed Six Nations it does not have legal title to Douglas Creek Estates; Ontario premier McGuinty announces intention to ask Ottawa to compensate the province for costs arising from the dispute
Oct 30/06	Julian Fantino replaces Gwen Boniface as OPP Commissioner
Oct 31/06	Federal Indian Affairs Minister Jim Prentice refuses to meet with Ontario Aboriginal Affairs Minister David Ramsay because of criticism directed at Ottawa by Ramsay and McGuinty
Nov 3/06	Federal negotiators present Canada's official position on ownership of Plank Road Lands (including DCE) at negotiations
Nov 14/06	Six Nations negotiators present their views as to the historical background of lands under dispute at negotiations
Dec 3/06	Rally held by about 30 people who want to raise a Canadian flag near Kanonhstaton
Dec 14/06	Ontario Court of Appeal issues final quashing of injunction against protestors; says Marshall erred in earlier ruling
Dec 16/06	Gary McHale and Mark Vandermaas arrested at third flag rally of about 150 people as they try to cross 'no-go' zone to reach occupied site
Jan 1/07	Elected Band Council returns keys to historic council house to Confederacy Council
Jan 20/07	Another McHale rally; OPP warns that breaching police line will result in arrests
Jan 25/07	Federal negotiators present federal legal response to Six Nations' presentation of November 14, 2006
Mar 19/07	Financial compensation details for homeowners adjacent to site released
Mar 29/07	Jim Prentice announces \$26.4 million towards Ontario's costs incurred as a result of the occupation, as well as expanded negotiations mandate to address all of Six Nations' claims

Apr 12/07	Julian Fantino implies that OPP will not support renewal of Caledonia's policing contract if divisive rallies are allowed to continue in town
May 7/07	Ontario announces Murray Coolican to replace Jane Stewart as principal Ontario negotiator
May 23/07	Protesters occupy development site in town of Hagersville south of Caledonia
May 30/07	Federal government issues \$125 million offer for 4 of Six Nations' outstanding land claims
Jun 6/07	Confederacy Council provides official response to \$125 million offer (neither accepts nor rejects); unofficial and publicly stated response is rejection of offer
Jun 12/07	Government of Canada announces Specific Claims Action Plan in attempt to speed claims across country; plan does not apply to unique Six Nations negotiations
Jun 21/07	Ontario converts secretariat of Aboriginal Affairs into stand-alone ministry; David Ramsay becomes Minister of Aboriginal Affairs
Sep 1/07	Haudenosaunee Development protocol released by newly created Haudenosaunee Development Institute
Sep 13/07	Canada votes against United Nations Declaration on the Rights of Indigenous Peoples at General Assembly; builder Sam Gualtieri injured at Caledonia's Stirling Street protest site after two sides agree to pause both protest and building
Sep 15/07	David Crombie appointed by federal Minister of Indian Affairs to be Community Liaison Official linking non-Aboriginal community and negotiators
Sep 20/07	Nine protesters arrested for continuing to demonstrate at Caledonia Stirling Street development after deal was made with Confederacy to allow development
Oct 18/07	Ontario commits to hold off developing some provincially owned lands in region while negotiations continue
Nov 21/07	Bill Montour elected Band Council chief at Six Nations, pledges to work more closely with the Confederacy Council and treat the Elected Council as administrative body

- Dec 2/07** Gary McHale injured and charged with mischief in demonstration against cigarette shops operated by Six Nations residents; five Six Nations people also eventually charged with mischief
- Dec 12/07** Federal government issues \$26 million offer to compensate for flooding of Six Nations lands in construction of Welland Canal

Appendix C

SIX NATIONS CONFEDERACY COUNCIL LAND RIGHTS STATEMENT

as adopted in council November 4, 2006

The Council of Chiefs of the Haudenosaunee, Grand River Territory, wish to affirm and clarify our land rights in the tract confirmed by Governor Frederick Haldimand on October 25, 1784. In making this statement, the Council of Chiefs wants to make it clear that we hold certain land ethics and principles that must be respected in any agreements on land use or occupation. The Haudenosaunee, and its governing authority, have inherited the rights to land from time immemorial. Land is a birthright, essential to the expression of our culture.

With these land rights come specific responsibilities that have been defined by our law, from our Creation Story, the Original Instructions, the *Kaianeren:kowa* (Great Law of Peace) and *Kariwiio* (Good Message). Land is envisioned as *Sewatokwa'tshera't* (the Dish with One Spoon); this means that we can all take from the land what we need to feed, house and care for our families, but we must also assure that the land remains healthy enough to provide for the coming generations. Land is meant to be shared among and by the people and with the other parts of the web of life. It is not for personal empire building.

First and foremost is the concept that we are connected to the land in a spiritual way. The earth is our mother and she provides for our long-term well-being, provided that we continue to honour her and give thanks for what she has provided. We Haudenosaunee have upheld our tradition of giving thanks through ceremony, and in the cultural practices that manifest our beliefs, values, traditions and laws. Planting, cultivating, harvesting, gathering, hunting, and fishing also have spiritual aspects that must be respected and perpetuated if the land is to provide for our future generations, and the future generations of our neighbours. We are stewards. Our spiritual obligation is part of that stewardship.

Second, according to our law, the land is not private property that can be owned by any individual. In our worldview, land is a collective right. It is held in common, for the benefit of all. The land is actually a sacred trust, placed in our care, for the sake of the coming generations. We must protect the land. We must draw strength and healing from the land. If an individual, family or clan has the exclusive right to use and occupy land, they also have a stewardship responsibility to respect and join in the community's right to protect the land from abuse.

We have a duty to utilize the land in certain ways that advance our Original Instructions. All must take responsibility for the health of our Mother.

Our ancestors faced overwhelming odds and relentless pressure to give up our lands. We all know that unscrupulous measures were employed to seduce our ancestors into "selling" the land. At other times, outright fraud took place, as was acknowledged in the Royal Proclamation of 1763. The agreements we recognize reflect an intention to share land, and to lease land, within the context of the Covenant Chain relationship that our nations maintain with the Crown.

Our wampum belts, treaty council documents and oral history inform us that we always retained the right to hunt, fish, and gather up on all of our lands. This reflects the spirit of sharing that we expect to continue, and is another example of the Dish with One Spoon.

We seek justice in our long-standing land rights issues. We seek an accurate accounting of the use and investment of the funds held by the Crown on our behalf, and land transactions conducted by the Crown involving our lands. For nearly two hundred years our Chiefs have been asking for such accounting and justice. Generations of our elders have passed away with these matters unresolved. It is time to end the injustice.

Our faith in the Canadian people is strong, as we feel that the majority of Canadians also want to see justice on these matters. However, their elected representatives and public servants

have failed to act effectively to address and resolve these matters. It is time to lift the cloud of denial and to wipe away the politics that darken the vision of the future. It is time we are heard clearly, and our cases should be addressed with the utmost good faith and respect. We firmly believe that if we have respect and trust, we will find mutually agreeable solutions that will reflect our long-standing friendship.

We want the land that is ours. We are not interested in approving fraudulent dispossessions of the past. We are not interested in selling land. We want the Crown to keep its obligations to treaties, and ensure all Crown governments – federal, provincial, and municipal – are partners in these obligations. We want an honourable relationship with Canada.

That relationship, however, must be based on the principles that were set in place when our original relationship with the Crown was created. That is the rule of law that we seek. It involves the first law of Canada – the law that Canada inherited from both France and Britain. It is the law of nations to respect the treaties, to not steal land, or take advantage of indigenous peoples by legal trickery. As the Supreme Court of Canada has frequently stated, where treaties are involved, the honour of the Crown is always at stake.

We seek to renew the existing relationship that we had with the Crown prior to 1924. That relationship is symbolized by the *Tehontatenentsonterontahkwa* (“The thing by which they link arms”) also known as the Silver Covenant Chain of Peace and Friendship. Our ancestors met repeatedly to repolish that chain, to renew its commitments, to reaffirm our friendship and to make sure that the future generations could live in peace, and allow the land to provide its bounty for the well-being of all the people. The Covenant Chain symbolizes our treaty relationship, also symbolized by *Tekani Teyothata’tye Kaswenta* (Two Row Wampum) which affirms the inherent sovereignty and distinctness of our governments. An essential part of this relationship is our commitment to resolve matters through good-faith negotiation between our governments, including consultation on any plans which might affect the other government or its people.

In any land issues, we want it understood that the following principles will govern any actions taken by the Haudenosaunee Council of Chiefs of the Grand River Territory:

- 1) The land is sacred to us. It defines our identities, belief system, languages and way of life.
- 2) We hold the aboriginal and treaty title to our lands collectively.
- 3) Our treaty relationship with the Crown is still alive and in force and directs our conduct in our relationship to Canada. Within this relationship, the terms of the treaties continue to bind both our government and the Crown.
- 4) We require a careful accounting for the Crown's dealing with our lands, and the return of any lands that were improperly or illegally taken from our ancestors.
- 5) We require an accounting for the funds administered or held by the Crown for the Six Nations people, and restitution of any funds unaccounted for.
- 6) It is not only within the context of our treaty relationship with the Crown that we see justification for such accounting and restitution. Canadian and international law is clear on the right of the Haudenosaunee to seek justice on these matters.
- 7) In any agreements with the Crown concerning land our goal is to promote and protect a viable economy for our people on our land – an economy that will be culturally appropriate, environmentally sustainable, and not injurious to our people and our neighbours.
- 8) Our fundamental approach is that Six Nations lands will come under the jurisdiction, management and control of Six Nations people. The federal and provincial governments must not impose jurisdictional, policing, taxation, and/or economic activities as part of the land rights settlement.

Our people, our laws, and our government have survived by being thoughtful, respectful, diligent and practical. In our relations with the Crown, and in any negotiations concerning land and the resolution of land-related issues, we will continue to apply those principles.