HOUSE OF COMMONS
CANADA

THE SUMMER OF 1990

FIFTH REPORT OF THE STANDING COMMITTEE ON ABORIGINAL AFFAIRS

Ken Hughes, M.P.
Chair

MAY 1991

THE SUMMER OF 1990

FIFTH REPORT OF THE STANDING COMMITTEE ON ABORIGINAL AFFAIRS

Ken Hughes, M.P.
Chair

MAY 1991

HOUSE OF COMMONS

Issue No. 59

Tuesday, April 9, 1991
Wednesday, April 10, 1991
Wednesday, April 17, 1991
Thursday, April 18, 1991

Chairman: Ken Hughes, M.P.

CHAMBRE DES COMMUNES

Fascicule nº 59

Le mardi 9 avril 1991
Le mercredi 10 avril 1991
Le mercredi 17 avril 1991
Le jeudi 18 avril 1991

Président: Ken Hughes, député

Minutes of Proceedings and Evidence of the Standing Committee on

Aboriginal Affairs

Procès-verbaux et témoignages du Comité permanent des

Affaires autochtones

RESPECTING:

Pursuant to its Order of Reference dated October 22, 1990, consideration of the events at Kanesatake and Kahnawake during the summer of 1990.

INCLUDING:

The Fifth Report to the House

CONCERNANT:

Conformément à son Ordre de renvoi daté du 22 octobre 1990, suite de l'étude concernant les évènements survenus à Kanesatake et Kahnawake durant l'été de 1990

Y COMPRIS:

Le cinquième rapport à la Chambre

Second Session of the Thirty-fourth Parliament,
1989-90-91

Deuxième session de la trente-quatrième législature,
1989-1990-1991

STANDING COMMITTEE ON ABORIGINAL AFFAIRS

MEMBERS

Chairman: Ken Hughes

Vice–Chairman: Allan Koury

Ethel Blondin	Wilton Littlechild	Stanley Wilbee
Marc Ferland *	Robert E. Skelly	Robert Nault

OTHER MEMBERS WHO PARTICIPATED

Edna Anderson	Ray Funk	Larry Schneider
Gilles Bernier	Al Horning	Ray Skelly
David Bjornson	Lynn Hunter	Barbara Sparrow
Lise Bourgault	Derek Lee	Bob Speller
Clément Couture	Ricardo Lopez	Blaine Thacker
Dorothy Dobbie	Arnold Malone	Scott Thorkelson
Murray Dorin	Ken Monteith	Walter Van de Walle
Ron Fisher	Beth Phinney	Brian White
Jim Fulton	Lee Richardson	Dave Worthy

* Though not a permanent Member, Marc Ferland participated regularly in this study.

CLERKS OF THE COMMITTEE

Martine Bresson
Normand Radford

FROM THE RESEARCH BRANCH OF THE LIBRARY OF PARLIAMENT

Wendy Moss, Research Officer
Rolande Soucie, Research Officer

Teressa Nahanee, Consultant

FROM THE OFFICE OF THE LAW CLERK AND PARLIAMENTARY COUNSEL

Martin S. Kalson, Senior Legal Counsel

ORDER OF REFERENCE

Extract from the Votes & Proceedings of the House of Commons of Monday, October 22, 1990 :

By unanimous consent, it was ordered,--That the subject-matter of the events at Kanesatake and Kahnawake during the summer of 1990 be referred to the Standing Committee on Aboriginal Affairs.

ATTEST

ROBERT MARLEAU
The Clerk of the House of Commons

THE STANDING COMMITTEE ON ABORIGINAL AFFAIRS

has the honour to present its

FIFTH REPORT

In accordance with its Order of Reference of October 22, 1990, your Committee has considered and heard evidence relating to the Events at Kanesatake and Kahnawake during the summer of 1990, and reports its findings and recommendations.

FOREWORD

An editorial in the Calgary Herald November 30, 1990 stated, "The testimony at these hearings... will not be pretty... But it is a necessary process if trust is to be nurtured and understanding established." Those words were proven prescient in the course of the hearings conducted from January to March, 1991.

The Committee appreciates the support shown by the 35 Members of Parliament from all three national parties, who in one manner or another, participated in this set of hearings. Their commitment to our common good was critical to the constructive result here achieved.

The Committee is greatly indebted to several individuals who provided guidance, direction and coordination to the work of the Committee. The clerks, Martine Bresson and Normand Radford, both exhibited loyal and committed service in the face of great challenges. Martin Kalson joined the team and provided very astute advice in his capacity as Senior Legal Counsel with the Office of the Law Clerk and Parliamentary Counsel. Teressa Nahanee took time from her law studies to provide valuable insight into the issues we faced. Rolande Soucie provided an essential research and support role in her quiet, capable and thorough manner.

For the fifth report in a row, this Committee had the good fortune to have Wendy Moss to lead the research and drafting work. Her effort, commitment, unswerving dedication and good judgement have served this committee in the best possible manner, not only with this report, but also for the previous two years.

In closing, perhaps it would be helpful for all Canadians to recall the words of Mohandas Gandhi

> "To understand nonviolence one must first understand violence and its two distinct aspects—physical and passive.
>
> Passive violence in the form of discrimination, oppression, exploitation, hate, anger and all the subtle ways in which it manifests itself gives rise to physical violence in society. To rid society of this physical violence, we must act now to eliminate passive violence."

TABLE OF CONTENTS

I. INTRODUCTION

The tragic conflict at Oka, Quebec deeply shocked all Canadians. The events of the summer of 1990 at Kanesatake and Kahnawake will remain with us for some time: the violent conflict between police and the people in "The Pines" on the 11th of July 1990; the death of Corporal Lemay; the blocking of the Mercier Bridge; civil unrest and expressions of racial hatred; widespread allegations of human rights abuses; the invoking of the National Defence Act to deploy at times up to 3,700 Canadian soldiers to Oka and Châteauguay, Kanesatake and Kahnawake; the emotional and psychological trauma suffered by all involved, particularly children; the stoning of Mohawk women, children and elders on the 28th of August 1990; the destruction and loss of property and livelihoods.

The complex issues underlying this conflict and the confusion and bitterness felt in its aftermath need to be grappled with in a substantive and sensitive way by federal, provincial, municipal and First Nations leadership. Every effort must be made to avoid any further violence and to heal the pain of all those touched by these tragic events. The critical state of relations between First Nations and the federal and provincial governments must be addressed, as well as the issues of racism and the political status of indigenous people in Canada.

The public record created by the Committee's proceedings has produced much valuable evidence and wise counsel. The hearings have also brought forth the critical issues on which action is required. However, the unavailability of some important witnesses and restrictions on the Committee's time meant that some critical information related to the events of the summer of 1990 is not part of this record.

As might be expected, the Committee's proceedings revealed fundamentally different perspectives on the summer's events. One witness said there is likely no one truth but a truth for every person reflecting different experiences and vantage points. In order to share some of these perspectives and what might be learned from them, this report will begin with an overview of the community of Kanesatake and a chronology of events leading to the conflict.

II. AN OVERVIEW OF THE COMMUNITY OF KANESATAKE

There are seven Mohawk communities in Canada totalling 39,263 persons: Kanesatake, Kahnawake, Akwesasne, Tyendinaga, Wahta, Six Nations at Ohsweken, Oneida of the Thames. The Mohawk community of Kanesatake has a total population of 1,591 people with a resident population of 838. Approximately half of the funding from the Department of Indian Affairs to Kanesatake is for the education of elementary and secondary students who are status Indians. The federal government provides transfer payments to the provincial government for the education costs of on-reserve status Indian children who attend public school off reserve. This budgetary profile is typical of many Indian communities who tend to have a substantial proportion of their total population of school age.

A) MOHAWK GOVERNMENT AT KANESATAKE

Before the enactment of the first federal Indian legislation in 1869, indigenous communities governed themselves according to their own traditional values and systems of government. In the nineteenth century, the Indian Act tolerated some continuation of "band custom" in matters of local government but only as a temporary measure. When certain First Nations refused to adopt the Act's elective system of band councils the federal government tried various means to force them to do so. Various statutory provisions were enacted giving the Minister of Indian Affairs increasing powers to depose traditional leaders. From time to time, some traditional leaders were arrested and symbols of office confiscated.

In 1899, the people at Kanesatake were brought under the Indian Act elective system--that is, the federal government decided that the Indian Act should be applied to First Nations in Ontario, New Brunswick and Quebec. There is no indication that this decision was taken as a matter of an expressed choice of the people concerned. In fact the introduction of an elected council was actively but unsuccessfully resisted by the Mohawk people. At St. Regis (Akwesasne), traditional chiefs were arrested in 1899 and five held in prison for one year. This type of repression was repeated at Ohsweken, Ontario in 1924: "At Ohsweken, the elected council system was summarily introduced in 1924, when Lieutenant-Colonel C.E. Morgan, flanked by RCMP officers dismissed the traditional chiefs from the Council House, confiscated the Council's Wampum belts (symbols of authority) and organized the election of a Band Council. " (Background Information from the Department of Indian and Northern Affairs "League of the Six Nations (Iroquois Confederacy)").

In 1951 the Indian Act was revised. In terms of federal law, Kanesatake reverted to "band custom" due to the government's failure to issue an Order-in-Council specifying that the elective provisions of the 1951 Act would apply instead. "Band custom" consisted

of what the federal government recognized or understood to be band custom. One explanation used by the Department of Indian Affairs to explain the reluctance to impose the elective system of the Act in 1951 was the government's doubts about whether the lands at Oka are an Indian reserve within the meaning of the Indian Act (Information Sheet of the Department of Indian Affairs and Northern Development, July 1990 "Mohawk Band Government" and a memo of the Lands, Revenues and Trusts Section of the Department, dated 17 February 1987). If this is the case, then there would also appear to be doubt as to whether there is any authority for recognizing any Indian Act Band Council there, whether by "custom" or by the election provisions of the Indian Act.

The community of Kanesatake has experienced intense internal debate over appropriate forms of Mohawk government for the past thirty years at least, and perhaps longer. Until September 1969, the Indian Act Band Council at Kanesatake while technically operating under band custom, modelled its method on the election process of the Indian Act and its regulations, according to the Department of Indian Affairs. In October 1969, the Department recognized a change in custom following a request for official recognition by the "Kanesatake traditional Chiefs" who backed their request with a petition from what appeared to be a majority of the resident adult population (158 out of 292). As of October 27, 1969, the "traditional chiefs" were recognized as the body with which the department would deal in matters relating to band affairs. An internal Departmental memo in 1970 described the 1969 change in custom as a change from a process of using an election system similar to that of the Indian Act to the Hereditary Chiefs system. This memo described the challenge to the authority of the Hereditary Chiefs by a group known as the Kanesatake Indian Committee or Gaspé group (which had originally supported the change in custom to Hereditary Chiefs). The memo took note of a matter which continues to be an issue today: "The Indian Act makes reference to custom but there is no explicit responsibility placed on the Department in this regard. Whether or not we should adjudicate disputes over interpretation of custom is again debatable."

The 1970 memo also describes how changes can be made to the composition of the Kanesatake Band Council under the system of custom the Department had recognized up to this point: "The [Hereditary] Chiefs explained that under custom this may be by death, resignation or in the case of bad behaviour the clan mother after suitable warnings may ask the individual to resign. Thereupon a Band meeting would choose a replacement." In 1970, the Gaspé group challenged the legitimacy of the existing Band Council on the authority of a petition signed by 121 of the 158 people who signed the 1969 petition. In the end the Department decided it was not knowledgeable enough about custom to adjudicate a dispute over interpretation of custom. If requested by a petition of a majority of electors to recognize a change in custom, the Department decided it would arbitrate only, and this through the process of a majority vote at a meeting or referendum of resident electors clearly setting out the proposed change in custom.

Since 1899, the federal government has tried to govern the Kanesatake community through the aegis of the Indian Act. Since at least 1951, this has involved having to cope with a continuous controversy over:

1. whether or not the Indian Act Band Council should be selected according to band custom as recognized and monitored by the Department or according to the election provisions of the Act and its regulations;

2. what properly constitutes band custom and how to deal with allegations that band custom has not been properly followed in the selection of a given chief or council.

Over the years, the government and some parts of the community have attempted to resolve these controversies by a series of referenda, petitions, court cases, meetings and house-to-house surveys. These initiatives have been limited to determining what system of Indian Act governance the community may want. However, an important part of the community—the Longhouse at Kanesatake—regards any initiative related to the Indian Act as contrary to Mohawk law.

Mohawks identifying with traditional Mohawk law and customs call themselves "the Haudenosaunee". In English, this means "People of the Longhouse". The Mohawk Nation is a constituent element of the Six Nations "Iroquois" Confederacy. The Confederacy is sometimes referred to as the Iroquois, the League of Five Nations, the League of Six Nations or the Six Nations Confederacy. The Six Nations "Iroquois" Confederacy is composed of the following nations from east to west: Kanienkahaka (Mohawk), Oneida, Onondaga, Cayuga, Seneca and Tuscarora.

The Six Nations "Iroquois" Confederacy has as its Constitution, the Great Law of Peace (Kayanerakowa) said by some to be the oldest Constitution in the world. It is said to be a fundamental tenet of the Great Law that any Haudenosaunee who cease to follow traditional customs in favour of an outside system of government, religion or way of life, alienate themselves from the Confederacy.

Accordingly, Longhouse members will not participate in any initiative connected to an Indian Act system of governance nor recognize the possibility of any legitimate form of Mohawk government other than the Longhouse system. In a letter dated June 2, 1967 Chief Samson Gabriel (Te-Ka-ri-He-Kon) stated: "We recognize no power to establish peacefully, or by the use of force or violence, a competitive political administration. Transactions of such groups in political and international affairs is very disturbing to the Six Nations "Iroquois" Confederacy Chiefs."

The Longhouse has never been equated with "band custom". This is impossible because adherents of the Longhouse refuse to recognize any federal authority over the Mohawk Nation. The Longhouse people would likely view any attempt at incorporating the Longhouse system as part of an Indian Act band custom system as compromising Mohawk sovereignty and the tenets of the Great Law.

The band custom system of Hereditary Chiefs is regarded by Longhouse members as alien, as something created outside of traditional law and therefore as illegitimate. While both the Longhouse and the Indian Act band custom of Hereditary Chiefs rely on a clan

system and involve clan mothers in the selection of leaders, the two systems are distinct. The Longhouse people have stated that contrary to the system of Hereditary Chiefs, the Iroquois Confederacy does not acknowledge a Grand Chief nor Head Clan Mothers nor do people vote on clan mother decisions. As the events of the past summer show, the Longhouse continues to exist at Kanesatake and with this institution, resistance to the Indian Act or any form of federally delegated local government also continues. In fact the refusal of the Longhouse to participate in any federally sanctioned activity affecting local government extends to refusing to participate in referenda and elections. The existence of several competing groups and the refusal of Longhouse members to participate in federally sponsored referenda and elections, has contributed to the difficulty of any one group achieving more than a plurality.

The Committee's hearings have not revealed much about the relationship between the Longhouse people and the Mohawk Warrior Society, other than a relationship of mutual support between those identifying themselves as Mohawk Warriors and the Longhouse members present in The Pines on July 11, 1990. The Longhouse and the Warrior Society are most closely associated with Mohawk assertions of sovereignty. The Warrior Society as it is currently known appears to be of relatively recent origin. It is often described as having been inspired by the "Manifesto" of Louis Koroniaktejeh Hall entitled Rebuilding the Iroquois Confederacy written in the early 1970's. However, Mohawk sovereignty claims are at least as old as the institution of the Longhouse. The Mohawk communities of Kanesatake and Kahnawake argued their sovereign status long before the summer of 1990. For example, in 1946 before the Joint Senate and House of Commons Committee on revision to the Indian Act, a delegation described as the Iroquois tribe of Lac des Deux–Montagnes asked for the abolition of the Indian Act, said they were not subject to any federal or provincial laws within their territories by virtue of their treaty rights and that "by virtue of our treaty rights we demand of the Canadian Government the recognition and respect of our sovereign rights and privileges as a Nation". (*Minutes of Proceedings and Evidence*, No. 33, p. 1795, Brief dated 24 October 1946)

The legitimacy of indigenous peoples' claims to self–determination and some form of residual sovereignty is being seriously debated as an issue of international law within the legal community. These are also issues beginning to arise in a substantive way in Canadian courts. There is a range of legal opinions on these questions. Most contemporary academic legal authorities conclude that aboriginal peoples constituted sovereign nations before the arrival of Europeans in North America. There appears to be less agreement on the effect of simple acts of "discovery" by European nations on the sovereignty of indigenous people and the impact of subsequent acts of European powers on the status of indigenous peoples. Legal commentators have reached almost every conceivable conclusion from denying any indigenous sovereignty even before "contact" to finding some form of residual sovereignty today.

Independent of this legal debate, the Longhouse people assert a sovereign status for the Mohawk Nation. Indigenous people across the country assert a right to recognition as sovereign nations but, with a few exceptions, in a sense falling short of complete

independence. Such recognition exists in the United States where Indian Nations are regarded in law as "domestic dependent nations" with some residual sovereign powers. In Canada the majority of First Nations people seek recognition under the Constitution of Canada of an inherent right to self-government. This seems to mean, in part, recognition under the Constitution of areas of exclusive First Nations jurisdiction where neither the federal nor provincial government can dictate what laws will be passed in First Nations communities in those areas of exclusive jurisdiction. In some areas a legislative role for federal and provincial governments would continue. In other areas, there would be shared jurisdiction. These are some of the many unresolved issues relating to the political status of First Nations in Canada.

B) LAND ISSUES AT KANESATAKE

The status of Kanesatake with respect to land does not fit within the usual pattern of Indian reserve lands in Canada. The Kanesatake people are in an anomalous situation under Canadian law: members of the Kanesatake "Indian Band" are "Indians" within the meaning of that term under the Indian Act, have an Indian Act Band Council, live on federal Crown lands (since 1945) reserved for their use (within the meaning of s. 91(24) of the Constitution Act, 1867) but do not live on lands clearly having status as an Indian Act reserve. This means there is no clear legislative regime applicable to provide for local control and administration of these lands.

The origin of this unique situation and the origin of land disputes in the region of Kanesatake and Oka, between native and non-native people, can be traced to the 1717 land grant by the King of France to the Ecclesiastics of the Seminary of St. Sulpice of Montreal. Around 1721, the Sulpicians established a settlement of religious converts, composed of Iroquois (Mohawk), Nipissing and Algonquin people within this seigneurial grant at Lac des Deux-Montagnes. The original grant was subsequently enlarged by the King of France in 1735. It is generally acknowledged that these tracts of land were granted to the Sulpicians for the purpose of protecting and instructing the indigenous people (a policy reflecting the ethnocentrism and paternalism of that time). However, the precise nature of the obligations of the Sulpicians to the native people has remained a point of controversy ever since.

Conflicts between the native people and the Sulpicians over the land were frequent, particularly over the issue of sale of the land to third parties. This controversy eventually led to the enactment in 1841 by the Legislature of Lower Canada of a statute confirming the title of the Seminary to the disputed land while retaining the somewhat vaguely defined obligations to the aboriginal population. *An Act respecting the Seminary of St. Sulpice* incorporated the members of the Seminary and provided that the corporation shall have, hold, and possess the "fief and seigniory" of Lac des Deux-Montagnes as proprietors in the same manner and to the same extent as the Seminary did under the original land grant. Local Mohawks continued to dispute the right of the Seminary to sell the land and complained about the manner in which the land was managed.

In the early part of this century the federal government attempted to resolve this issue by initiating a court action on behalf of the indigenous people at Lac des Deux-Montagnes to determine the respective legal rights and obligations of the Seminary and the aboriginal population. In determining the nature of the land rights of the Seminary, its ability to sell the land unencumbered to third parties would also be clarified. This court action resulted in the 1912 decision of the Judicial Committee of the Privy Council, *Corinthe v. Seminary of St. Sulpice*. In this case, the Privy Council (then the final court of appeal for Canada) stated that the effect of the 1841 legislation "was to place beyond question the title of the respondents (the Seminary) to the Seigniory; and to make it impossible for the appellants to establish an independent title to possession or control in the administration". The Privy Council also said that the Mohawks could not assert any title by virtue of aboriginal title, nor by prescription nor by way of trust. Their Lordships suggested there might be the possibility of a charitable trust but that the issue was not argued in this case. In essence, the court held that the Mohawk people had a right to occupy and use the land until the Sulpicians exercised their unfettered right to sell it.

The conflict between the Seminary, which continued to sell off parts of the original grant, and the native people continued. In 1945, in another attempt to end this controversy, the federal government purchased what was left of the Sulpician lands and assumed whatever obligations the Sulpicians had towards the Mohawks but without consulting the Mohawks about this agreement. This was the beginning of a process that continues today of assembling land under federal jurisdiction for a reserve at Kanesatake. One of the obstacles to creating a reserve base under the Indian Act, or any future legislation, is that the land purchased in 1945 consists of a series of blocks interspersed with privately held lands within the Municipality of Oka. Both the community of Kanesatake and the Municipality of Oka are faced with the problem of making decisions regarding land use and management that may affect the other community and dealing with decisions made by the other community affecting them. The question of coordinating land use policies has been a source of friction between the two communities for some time.

In 1975, the Mohawks of Kanesatake presented a joint claim under the federal comprehensive land claims policy with the Mohawk people of Kahnawake and Akwesasne, asserting aboriginal title to lands along the St. Lawrence and Ottawa Rivers in southern Quebec. "Comprehensive claims" involve claims to an existing aboriginal title and presume the need to negotiate a range of matters such as land to be held under aboriginal control, lands to be ceded, compensation and future legislative regimes to be applied to the territory in question. The following is a general description of the land involved in the Mohawk claim: the southwestern part of the Province of Quebec encompassing the area along and adjacent to the St. Lawrence and Ottawa Rivers stretching south and east to the U.S. border and north to a point near the Saguenay River and including areas to the north and west of the St. Lawrence and Ottawa Rivers. This territory would include the disputed lands in The Pines at the center of last summer's dispute.

The federal government rejected the Mohawk comprehensive claim on the following grounds:

1. The Mohawks could not assert aboriginal title as they had not maintained possession of the land since time immemorial. The land had been alternately and concurrently occupied by the Nipissing, Algonquin and Iroquois.

2. Any aboriginal title that may have existed had been extinguished first by the Kings of France with respect to the land grants made by them, including the seigneurial grant to the Seminary of St. Sulpice, and by the British Crown through the granting of title to others when lands were opened to settlement.

Before this Committee, the Department of Indian Affairs again stated its view that the fundamental weakness of the Mohawk land claim in the area of Oka is that the historical record, as the Department views it, fails to demonstrate exclusive Mohawk use of the territory since time immemorial—relative to other native people, as well as non-native people such as the Sulpicians. From the Mohawk perspective, the claims of Canadian governments and non-native settlers are at least equally flawed.

The Department's response to the Mohawk claim has also been expressed another way. The Department has described the Mohawks at Oka as descendants of the Iroquois, Algonquins and Nipissings (Information Sheet, July 1990 "Mohawk Band Government"). If this is the case, then there seems to be a question whether the indigneous people of Kanesatake could demonstrate traditional use and occupancy of the land not just as Mohawks but also as descendants of all aboriginal peoples who used that territory prior to and since the arrival of Europeans.

As an alternative argument to the comprehensive claim, Mohawks say that the Sulpician land grant was intended for the benefit of the indigenous people. Accordingly, the Sulpician Order was not free to sell any of this land without the consent of the native people concerned. This is regarded as a specific claims issue. Specific claims arise from allegations of government mismanagement of Indian lands. With respect to any specific claim in this region, the federal government essentially takes the position that the 1912 Privy Council decision is a full answer to the question of any outstanding legal obligation of the federal government.

In summary, Mohawk claims to land have been advanced on a number of grounds, each representing a separate legal argument but also related to one another:

1. territorial sovereignty flowing from status as a sovereign nation;

2. treaty rights;

3. the Royal Proclamation of 1763;

4. unextinguished aboriginal title under common law;

5. land rights flowing from the obligations imposed on the Sulpician Order in the 18th century land grants to the Order by the King of France.

From the viewpoints of the federal, provincial and municipal governments, most, if not all of these issues were essentially decided against the Mohawks as a result of the 1912 decision of the Judicial Committee of the Privy Council in *Corinthe v. Seminary of St. Sulpice*. However the issue of Mohawk sovereignty was not directly before that court.

Mohawk land rights issues at Kanesatake are distinct from many other indigenous land rights issues because they are one of a handful of aboriginal title cases to have reached a final court of appeal (this is not to suggest that there are not other legal issues relating to land that could be litigated); and the Mohawks are one of a few groups to have worked their way through both the specific and comprehensive claims process. Both claims have been rejected by the federal government. Despite these setbacks, Mohawks continue to argue they have land rights based on all the grounds set out above.

The Mohawk people today argue that independent of the arrival of Mohawk religious converts in 1721 at the Sulpician Mission at Lac des Deux–Montagnes, the Mohawk Nation used and occupied that territory and exercised sovereignty over it long before the land grants by the King of France. The Mohawk people make reference to a number of treaties with European powers (Holland, France and England) which they say acknowledge the sovereign status of the Mohawk people throughout their territory in Canada and the U.S. They also question the legality, under international law, of the land grants. For example, if these lands were unoccupied by non–native people before 1717 but were occupied and used by indigenous people (whether Mohawk, Nipissing or Algonquin), by what international legal principle could a European power assert sovereignty over the territory in the absence of conquest or cession?

Contrary to this position, the Municipality of Oka, the federal and provincial governments and persons claiming a clear title through the Seminary, argue that aboriginal people have no proprietary rights outside of the federally purchased lands and that this issue has been conclusively settled by legislation and litigation.

As of 1985, Kanesatake lands totalled 828.1 hectares (2046.31 acres). In 1986, following the rejection of the specific land claim, the federal government committed itself to a project of land unification by purchasing additional lands in order to create a contiguous land base for Kanesatake Mohawks. Apparently, this project was subject to the conditions and criteria of the Federal Reserve Enlargement Policy (Letter dated 28 April 1989 from the Regional Director, Lands Revenues and Trusts to the Acting Grand Chief of the Six Nations Traditional Hereditary Chiefs).

Thus, independent of the existing federal land claims policy, the federal government began a process before the Oka conflict, aimed at purchasing additional land for a unified land base for the Kanesatake people. It does not appear that any purchases were made between 1985 and the summer's conflict in 1990. Purchases were made during the conflict, including the controversial Pines.

The federal government remains intent on assembling a unified land base at Kanesatake. Once this is accomplished, the question arises of what form of legislative land regime should be applied to it. The Department of Indian Affairs appears to envisage the application of the Indian Act on an interim basis but is open to discussion of an alternative legal regime within the parameters of the current federal self-government policy. That is, the current self-government policy could be used to negotiate a local self-government regime over the reserve to displace the Indian Act, as the Cree of James Bay, Quebec and the Sechelt people in British Columbia have done. However, this raises the complex issues of self-government and indigenous sovereignty and in turn, the issues of forms of government in the Mohawk community. There are a number of firmly held and conflicting positions within Kanesatake, regarding forms of local government including bitter debates about what values, structures and processes embody, or are consistent with, customary Mohawk values. There are different visions not only of traditional Mohawk law but also of what an elective system of government should be.

Progress on the issue of Mohawk leadership is essential to progress on the critical issues of land rights, native sovereignty and self-determination affecting the people of Kanesatake. The Committee was told by many witnesses that a solution cannot be imposed by outsiders, least of all by the Government of Canada. If this is the case, then every attempt to find a solution within the community and consistent with Mohawk and Six Nations "Iroquois" Confederacy traditions should be encouraged.

The question is, whether any organization or mechanism exists within the Mohawk community to continue the important mediating role performed last summer by the Six Nations Iroquois Confederacy. Without such a process, there is little hope for resolving any fundamental issues. When the issue of representation is resolved in some significant way, the Government will be better placed to respond to the wishes of the community on self-government and land matters.

In the meantime, the Kanesatake community remains in a state of legal and political uncertainty with an Indian Act Band Council that seems unable to garner anything more than a plurality of support, and lives on federal Crown land reserved for their use but with no legal regime to provide community control.

The dispute over the golf course expansion involved land sold by the Sulpicians sometime ago. At the time of the July crisis, the land was privately held. The Municipality of Oka held an option to purchase that land and planned to exercise that option for the purpose of leasing the land to the Oka Golf Club. These lands are significant to the Mohawk community because they formed part of "common lands" dating back to the 18th century settlement and since used for recreational and other community purposes. These lands also provided access to a Mohawk cemetery in the Pine forest. The pine forest itself is

significant as one of the earliest reforestation efforts in North America. It is tragically ironic that The Pines were planted in a cooperative effort between native and non-native people in the late nineteenth century. The forest was subsequently cared for by local Mohawks. When the Oka conflict escalated into an armed conflict in early July, the federal government was engaged in negotiations for an agreement to govern future land assembly, management and use.

III. EVENTS FROM MARCH 1987 TO JULY 11, 1990

The year 1987 is a logical starting point for an examination of contemporary events underlying the Oka conflict. It was in March of that year that the "Club de golf Oka Inc." sought a renewal of its lease of the existing nine hole course. This proposal led to friction between the Municipality and the people of Kanesatake who had always objected to the presence of the golf course and claimed the land as their own. A few months later the Kanesatake Band Council sought to block this proposal. The golf course is situated west of the Municipality surrounded mostly by forested land.

It also appears that in early 1987, the community of Kanesatake was once again experiencing turmoil over the issue of appropriate systems of governance. Some members of the community were seeking a change from band custom, by which the Six Nations Traditional Hereditary Chiefs have been appointed, to some form of elective system. In addition to this debate, the Longhouse objected to the traditionalist claims of the Indian Act Band Council. In February 1987, Walter David Sr., wrote to the Band Council in his capacity as Secretary, of the Six Nations "Iroquois" Confederacy Longhouse of Kanesatake. The letter protested "the Kanesatake Band Council's knowledgeable theft of our title, our clan system and the Great Binding Law, the 'Kayenerakowa', all of which belong to the Longhouse People." The letter goes on to say that the Longhouse has protested this for many years and that a "Mockery is being made of the legitimate Six Nations Iroquois Confederacy when the Band Council abuses our title and maintain that they are a so-called 'Traditional' form of government; while at the same time abiding by the Statutes of the Indian Act in all transactions with the Federal Government....We have no objection if the Band Council call themselves Mohawks, but we protest strongly the Band Council's calling themselves Six Nations Traditional Hereditary Chiefs or any part of our title." As a final note, the Longhouse states that its members take no side in the disagreements dividing the community at that time.

Subsequently, the Department of Indian Affairs then engaged a consulting firm to conduct a survey to determine whether there was community support for a change in local governance, either in custom or a change to some form of elective process. The firm of Laporte et Gravel reported at the end of May 1987. The result of this study and further consultations by the Department was a decision taken by the Department to conduct a referendum on whether the community wished to change the selection of the Indian Act Band Council back to an elective system governed by the Act. The Six Nations Traditional Hereditary Chiefs launched an action in the Federal Court to block this proposed action. In February 1991, the Federal Court Trial Division held that the federal government has the power to conduct such a referendum as a result of the Minister's discretionary power under the Act.

The Department also concluded from the Laporte Gravel report that the federal government should not get involved in any debates on changes to band custom. Such matters were to be dealt with by the community without any mediation or intervention from

the Department. The evidence suggests that the Department favours a return to an elective system of government at Kanesatake, as the Minister and Departmental officials have noted publicly several times that clan mothers (associated with the band custom system, as opposed to the Longhouse) have appointed six different chiefs in five years. Further, the Department has supported efforts to initiate a referendum on an elective process.

On May 20, 1987 Grand Chief Alex Montour wrote to the office of the Minister of Indian Affairs on behalf of the Six Nations Traditional Hereditary Chiefs, to express the concerns of Kanesatake Mohawks respecting renewal of the golf course lease. Chief Montour asserted that "the land rented by the Club de Golf d'Oka is part of the territory that was set aside long ago, for the use of Kanesatake Mohawks, better known as 'common land', to serve the native community for pasture and wood cutting purposes". Chief Montour stated that the Mohawk people had unjustly lost, and were interested in taking back, their former ancestral land. He stated that the Minister of Indian Affairs had in the past expressed an intention to consider the purchase of additional lands to redress the situation at Kanesatake. The letter closed with a request for concrete action from the Department to assist the community to take the proper steps to halt the lease contract. Documentation supplied by the Department to the Standing Committee indicates that a preliminary meeting had been held on January 15, 1987 to discuss "Unification and Enlargement of the Territory of Kanesatake" and how the federal policy on enlargement of reserves might be applied for this purpose.

The Honourable Bill McKnight then Minister of Indian Affairs replied as follows:

> Thank you for your letter of May 20, 1987.... concerning the land granted by Le club de golf d'Oka Inc.
>
> Please note that the lands acquired in 1945 from the Sulpician Fathers did not include the above land. In fact, the lands which were not occupied by the Indians but known as the "common lands" were sold to the Municipality of Oka in 1947 and converted into a golf course. For your information, the remaining land was used for various development projects. Furthermore, as you know, these lands were part of your land claim which has not been accepted for negotiation, after analysis and review by the Department of Justice.
>
> Consequently, I trust that you will understand that Indian and Northern Affairs Canada cannot intervene in this private matter.

Documentation from the Department reveals further correspondence regarding the Oka golf course in April and June of 1988. On the 12th of April 1988, a telex was sent by Chief Kanawato Gabriel of the Five Nations Longhouse People of Kanesatake to Minister McKnight:

> Dear Sir, Greetings from the Five Nations Longhouse People of Kanesatake. We write to you today in an effort to curtail an upcoming future problem that will happen in our area very shortly.

> You are no doubt aware of the problem that now exists here in Kanesatake pertaining to the land situation and more specifically the area of "our" lands we call "The Pines".
>
> It is imperative that we meet to discuss this urgent matter before it is allowed to get out of hand. Even now our young men have vowed that no work will be carried out in this area even to the extent of a possible usage of violence. Violence breeds more violence. The vicious circle will not end. The minds of honourable men should be opened to reason, therefore we call upon your integrity as a leader to stick with us so that no harm will come to either side yours or ours. We request a meeting with you as soon as possible to halt the threat of this grave situation that faces both our peoples.
>
> We await your reply.

Two days later, the Municipality of Oka obtained an interlocutory injunction from the Quebec Superior Court against the Six Nations Traditional Hereditary Chiefs and the Warrior Society, ordering the Mohawks to abstain from interfering, disturbing, intimidating or threatening municipal employees from performing their work on municipal land.

In May 1988, the Club de golf Oka Inc. submitted a proposal to the Municipality of Oka to expand its golf course from nine to eighteen holes. The Municipality held an option to purchase the land required for the proposed expansion.

On June 15, 1988 the Minister replied to Chief Gabriel in a similar vein as the 1987 letter to Chief Montour. In addition, Mr. McKnight stated "the band does not have a property interest in the land claimed". The Minister stated that the Department could not become involved in the matter. However, the Minister pointed out that a study had been initiated with the Band Council's support, to assess land needs at Kanesatake.

Between August and September 1988, the Municipality selected a site for the proposed expansion and made an offer to purchase the privately held land which was adjacent to municipal lands. In its evidence before the Standing Committee, the Municipality maintained that the proposed golf course expansion did not involve "The Pines" but rather land owned by Mr. Maurice Rousseau and that it was already the object of a housing development plan. In making this assertion, the Municipality seemed to be under the impression that "The Pines" (the original common lands used by the Mohawks within the Sulpician grant) were restricted to the evenly planted rows of trees, placed in this fashion by Mohawks and Algonquins under the guidance of the Sulpicians and that the forested land owned by Mr. Rousseau was a natural growth forest.

However, the evidence of Mr. Michel Girard an historian who has studied the history of the Oka forest in some considerable detail was that both the original nine-hole golf course and its proposed expansion involved lands that were once part of the historic "common lands" which are of such importance to the local Mohawk population. Mohawk

witnesses spoke of their resistance to the original golf-course in the late 1940's. The forest had originally been planted to prevent erosion of the sandy soil at the top of the hill and overlooking the town of Oka, from descending down into the town under heavy rainfall. It was apparently for this reason that the Municipality was persuaded in 1947 not to develop that part of the common lands that became the object of dispute in 1989-90.

Mr. Girard testified that the proposed golf course expansion in 1990 threatened a unique part of the forest, consisting of a hemlock forest planted by the Mohawk people on their own initiative and in their own manner in the 1910's. This forest was not planted row by row in the European manner, but in bunches, in a way resembling with remarkable accuracy a natural growth forest. Mr. Girard stated:

> They [the Mohawk people] planted hemlock, bunching them together and the amazing thing is that, today this forest is very healthy and it reproduces the natural eco-system. I am going to make a claim here. I think it is the only forest in North America that has been planted in a bunch like this, the oldest one for sure. That forest should be studied by foresters and by people who are interested in replanting, because its success is so amazing. Nowadays golden eagles, bald eagles and pine warblers, very rare species of birds, love to nest in this forest....By the 1920's the Oka experiment was recognized throughout the province of Quebec and also in Canada as a real success. (*Minutes of Proceedings and Evidence*, Issue No. 54:60)

According to Mr. Girard, it was this forest that the Mohawk people came to call "The Pines".

By the 13th of March 1989, the Municipality had accepted an offer by Mr. Rousseau to sell approximately 45 acres of land for $70,000 on condition that the land was used for the golf course expansion and provided the Municipality accepted a subdivision plan for the remainder of the land amounting to approximately 30 acres. By this time, signs of strain in the relations between natives and non-natives were evident.

On the 22nd of March 1989, Grand Chief Clarence Simon of the Six Nations Traditional Hereditary Chiefs wrote to the Municipality of Oka enjoining the Municipality not to proceed with the expansion of the golf course, asserting unextinguished aboriginal title to the land and strongly advising the Municipality not to make any further developments on Mohawk territory.

According to the evidence of a local environmental group (Regroupement pour la Protection de l'Environnement d'Oka) in April 1989, 300 Mohawk people peacefully marched through the streets of Oka. They invited non-native residents to join them in opposing the golf course expansion on political, social and environmental grounds and maintained that a moratorium on development would be beneficial to all. The Mohawk people also asserted ownership of the land and stated a wish to maintain its current character as a recreational site.

Several public meetings followed. Local environmentalists also organized themselves in opposition to the proposed expansion. Meetings between the two camps—those for development of "The Pines" and those against—did not go well. On the 24th of May 1989, the Regional Municipality requested the federal government to take, without delay, measures towards resolving the crisis between municipal authorities and the local Mohawk population. The provincial native affairs minister was also consulted.

In June, 1989 the Oka Golf Club and the Municipality of Oka reached an agreement in principle on the rental and expansion of the golf course lands. The Municipality viewed the development as beneficial to the region and the Municipality. The Department of Indian Affairs invited the Municipality to participate in tripartite negotiations (provincial–municipal, Mohawk, federal) on a land unification project for Kanesatake. A press conference was announced by the Oka Golf Club for August 1, 1989 to "celebrate" the cutting of the first tree, but was not held.

In a meeting on the 3rd of August on the matter of land unification, the Municipality agreed to a fifteen day moratorium on the golf course project to allow negotiations to proceed on various legal matters between the Municipality of Oka, the Parish of Oka and the native people. The Municipality undertook to seek the agreement of Mr. Rousseau and the Oka Golf Club to a moratorium.

In September 1989, a tripartite negotiating committee began work on a framework agreement to govern a negotiation process on the issues of land unification for Kanesatake and resolution of jurisdictional issues between the communities of Oka and Kanesatake. There is no evidence such an agreement was at any point actually signed by all three parties. It is clear that Mohawk consent to the framework agreement was to be contingent upon community approval through a process of consultation. From September to December 1989, the moratorium on development was renewed by the Municipality, the Oka Golf Club and Mr. Rousseau.

In September 1989, public notices were posted by the Six Nations Traditional Hereditary Chiefs to announce that community consultations would take place on the proposed framework for negotiations. In October, Band Council representatives and the federal government discussed how community consultations should proceed. A letter dated 11 October 1989 from the Director of DIAND's, Lands, Revenues & Trusts Branch to the Band Council suggests there was agreement that eighteen years would be the minimum age for participation in the consultation process and that "for the consultation to be concluding, half plus one of your population should participate in the process and that half plus one of those who participated should pronounce themselves one way or another". By November it appears the Band Council had changed its original consultation plans and that these changes would require additional time. Eventually, the federal and municipal governments believed they had an undertaking from the Band Council to complete and report on the results of the community consultations by March 1990.

The evidence before the Committee does not reveal exactly what form of consultation process took place in Kanesatake on the proposed framework agreement. The Department of Indian Affairs seems to suggest that the consultation process, if started, was not completed. On the other hand, most if not all of the Mohawk witnesses were quite firm in their view that the result of consultations was rejection of the proposed framework for negotiations.

In January 1990, a controversial change in the leadership of the Six Nations Traditional Hereditary Chiefs occurred. Clan mothers removed Clarence Simon as Grand Chief and appointed George Martin in his place. Mr. Simon alleged that the clan mothers did not properly follow the band custom in this matter. At this time the Band Council was also struggling to deal with a budget deficit. Dan Gaspé was appointed in January as an administrator and fired by the Band Council in March. The new Band Council did not return to the negotiating table to actively discuss the questions of land unification at Kanesatake and coordination of jurisdictional issues with the town of Oka.

In its brief to the Committee, the Municipality stated that on March 5, 1990, the municipal council passed a resolution ending the moratorium as of March 9 and authorized the implementation of the golf club expansion project. The Municipality stated that this resolution followed a suspension of negotiations by Chief Martin and that:

> On March 7, Chief George Martin sent the Municipality of Oka a letter requesting the moratorium be extended until March 23. We did not have much time to reply because on March 11 the barricades went up and the Warriors were centre stage. (Issue No. 55:50)

In their evidence before the Committee, both the people of the Longhouse at Kanesatake headed by Samson Gabriel and representatives of the Indian Act Band Council (Six Nations Traditional Hereditary Chiefs) maintained that the land unification project as conceived by the 1989 proposed framework agreement was rejected by the community as inadequate because it was not viewed as likely to produce a sufficient quantity of land (eighty hectares over 25 years was proposed) nor was it considered likely to address the long standing problems or unique character of Kanesatake.

Longhouse members at Kanesatake testified that the 1989 framework agreement was unanimously rejected by those involved in community consultations in the fall of 1989. Following this development and the change in Band Council, the Longhouse felt that a negotiator mandated by the community was being excluded from negotiations between the new Band Council and the Municipality:

> We had no input into the talks and we had no idea of what these people would be taking away from us. We could not oversee it and we could not be certain that our best interests were being considered. With the uncertainty about the mandate of the local band council, not much confidence was placed in them by the local population, by the local Mohawks in Kanesatake. That is how I see the precipitating factors which led to the barricade going up on the small dirt road in Kanesatake, known as Chemin du Mille.

> It was a concern that we were being sold out, that our land was being sold out from under us, our traditional lands. And I supported the idea in my own spirit that we could not trust the leadership at that time and that something had to be done. (Morris Gabriel, Issue No. 53:15)

There have been longstanding doubts held by the Mohawk people about the sincerity of the government parties in negotiations. Mr. Curtis Nelson of the Longhouse at Kanesatake stated before the Committee:

> There has never been a serious attempt on the part of your government to negotiate in good faith with our traditional government, the true holder of title to the land. Your government has consistently refused to recognize treaties, signed by your Crown, or to acknowledge the Longhouse people, until very recently. (Issue No. 53:54)

The negative experience of the Mohawk community with the federal land claims process in the 1970's and 1980's only contributed to Mohawk suspicions.

Curtis Nelson also stated that :

> [Mohawk] surveillance of the area we call The Pines began on March 10, 1990. This was after the lifting by the municipal council of a moratorium on the expansion of a private golf course and after unanimous ratification of the project by the golf club membership on March 9. Barricades were later erected on the seasonally-used dirt road, leading through a forest, most of which was slated to be clear-cut for the expansion project. (Issue No. 53:54)

The evidence of Longhouse members appearing before the Committee with Chief Samson Gabriel on March 12, 1991, suggests that there was debate within the Longhouse over the issue of armed resistance on or about July 5, 1990. However, the evidence of Dan Gaspé, who was the Kanesatake band administrator from January to March 9, 1990 suggests that the issue of using arms was raised as early as March 1990, following a community meeting. Mr. Gaspé stated:

> On March 8 I co-chaired a community meeting. About 10 people decided that there would be an occupation of the territory. Things had degenerated to the point where negotiations were not going to happen, and people were very concerned about that. We were looking for a way to safeguard our lands. Within a couple of days a small group from the community—they had not been present at that community meeting—decided on its own to take over the process. The other meeting co-chairman and I thought this was okay until we had a discussion with them about the rules for the occupation. When we tried to set some rules for how this project was going to go forward, we lost the argument as to whether or not arms were going to be used. My point of view was that arms should not be used at all. They should not even be in the area. With support from friends I argued this point two days but I lost out in the end. (Issue No. 54:56)

Mr. Gaspé's evidence suggests community endorsement of some form of "occupation" of the disputed territory, that subsequent to the community meeting a small group from within Kanesatake took over "the process" and decided on the use of arms.

According to the evidence of Curtis Nelson and the Municipality of Oka, on May 1, 1990 the intervention of the Sûreté du Québec was sought to enforce an April 26 injunction against members of the Kanesatake Band, Marshall Nicholas and his sympathizers and Grand Chief George Martin, ordering them not to obstruct pedestrian or automobile traffic on Chemin du Mille. Curtis Nelson of the Longhouse testified that a raid on the barricades was narrowly averted, when a representative of the provincial government intervened, asking for a meeting of all parties. The provincial representative was told a meeting would be conditional on the withdrawal of the SQ and he agreed. Despite low altitude flights by an SQ helicopter over the meeting, discussions took place in The Pines between the representatives of the province, the Municipality and the Mohawks. The Mohawks eventually concluded that the Municipality had no serious proposal to offer and it was decided to reconvene the meeting the following day at the Longhouse and to summon the federal representative. (Issue No. 53:55)

The Municipality stated that on May 1, 1990, municipal officials went to meet the Mohawks and requested the removal of the barricades but were refused. Instead, the Mohawk people present purportedly refused to lift the barricades and demanded a fifteen day moratorium on the golf course expansion work and a resumption of negotiations with the federal government. The Municipality stated that on May 2, it offered to suspend all decisions and actions on the golf course for a period of fifteen days in order to pursue negotiations, if the barricades were lifted. The Municipality says the Mohawk people at the barricades refused this offer.

Then, according to Curtis Nelson's testimony, there was a series of meetings between the Mohawks and the federal representative, who assumed responsibility for representing the interests of the province and the Municipality. Nelson said:

> These discussions were conducted mainly between Canada and the Longhouse, with the Band Council participating in a collaborative manner. It became evident fairly quickly that these talks would not go far, because the federal representative was mandated only to discuss the land unification proposal that had been rejected by community members who had participated in public consultations. Our position was that we were open to discussions but they would have to be conducted in the proper context, on a government-to-government basis and that long-term solutions would have to be found. (Issue No. 53:55)

This was a position that would be repeated by Mohawk representatives following the July 11, confrontation throughout the summer, past September 26th and up to the present.

From the viewpoint of the Municipality, armed and masked outsiders had taken over the situation, hardened the Longhouse positions and were attempting to provoke confrontation. The Municipality felt that the federal government was being taken in by a

radical element from outside Kanesatake and that the issues of lifting the barricades and of local land claims had been overtaken by the wider question of Mohawk sovereignty in Canada. In its evidence, the Municipality also stated: "On the evening of May 2, the federal negotiator informed the Mayor and the Deputy Mayor that the government was willing to purchase land to be used for the golf course expansion. Figures were even mentioned for the transaction. The Municipality of Oka stated that this transaction would be subject to an overall settlement of all the contentious issues associated with removal of the barricades. This exchange was not reflected in a letter from the federal negotiator to the Municipality, except at the end of July, when the context was very different, three months later and after July 11." (Issue 55:52)

Over the month of May, the Longhouse sought a meeting with the federal Minister of Indian Affairs. In the meantime, the Municipality contacted members of the provincial cabinet. The Municipality stated that on May 7th, it requested the assistance of the Sûreté du Québec from the Quebec Minister of Public Security, the Honourable Sam Elkas. The Municipality felt this request did not receive the attention it deserved. A meeting with Quebec Native Affairs Minister, the Honourable John Ciaccia, purportedly resulted in a statement by the Minister that he had the approval of the mayor for the sale of the lands of Mr. Rousseau and other municipal lands to the federal government. The Municipality denied such approval was given. The Municipality of Oka said that by May 14th, there were armed warriors present and the barricades were still in place because of government inertia. The Municipality adopted a resolution authorizing the purchase of Mr. Rousseau's land for the golf course expansion, and authorizing the signing of the lease with the Oka Golf Club. At this time it was also decided not to sell any land to the federal government.

→ However, on June 5, 1990, the Municipality adopted a resolution proposing a moratorium on construction of the golf course and the resumption of negotiations on condition that the barricades were lifted. The Municipality says this proposal was communicated to the Mohawks at the barricades but was refused. ←

Curtis Nelson of the Longhouse suggested that following a June 21st meeting between the Honourable Tom Siddon and Mohawk representatives, in the East Block of the Parliament Buildings in Ottawa, there was a general sense of anger and disillusionment among all Longhouse members. However, disagreement arose over what action to take next. Curtis Nelson testified: "We attended the June 21 meeting in the East Block where the Minister informed the Band Council that the most they could hope to achieve would be fee simple title and limited jurisdiction under existing self-government policy. When it became obvious that there would be no discussion on the barricades, we delivered our statement and left." (Issue No. 53:55) Mr. Nelson also stated that at approximately this time, the Municipality was preparing an application for injunction. A previous seven day injunction had expired. Nelson said the Longhouse learned the federal mediator was quoted in an affidavit as saying that his efforts at mediation were in vain.

The June 21st statement referred to by Mr. Nelson was provided to the Committee by the Department. It states a number of positions that involve implicit assumptions of Mohawk sovereignty. For example, the statement informed the Minister:

- that the Longhouse people of Kanesatake are members of the Mohawk Nation which is a sovereign nation, within the Five Nations Iroquois Confederacy
- that the Longhouse people of the Mohawk Nation are duly represented by their Life Chiefs appointed by the Clans in accordance with the customs and laws of the Mohawk Nation and all discussions concerning the traditional lands of the Mohawk Nation must be conducted by representatives of the Longhouse people
- that no agreement reached between Canada and the Band Council, also known as the Six Nations Traditional Hereditary Chiefs will be binding on the Longhouse people of the Mohawk Nation
- all present and future development on Mohawk traditional lands by non-Mohawks, must be suspended pending agreement on long term and long lasting solutions
- all past development is subject to be reassessed and must come under the jurisdiction of the Mohawk Nation at Kanesatake
- all actions by external levels of government such as the filing of injunctions against the Mohawk Nation and the harassment of Mohawk individuals by police, paramilitary and military force, the municipalities of Oka, Regional Municipal Councils and the Regroupement des Citoyens d'Oka, cease in order that an atmosphere of peace and order be restored to permit meaningful discussion.

In the evidence of the Longhouse People at Kanesatake given on March 12, 1991, the first mention of any discussion about the possible use of arms refers to days around July 5, 1990. In his testimony Mr. Nelson stated that following the June 21st meeting with the federal Minister of Indian Affairs:

> We were later informed that your government once again would not acknowledge or deal with the Longhouse people. When word of your government's position got back to the people in The Pines, many were angered. They felt we had tried every possible peaceful and diplomatic way to have Canada take us seriously. They decided that it was time to fight and that the barricades would not come down until Canada relented. Some of us disagreed with this approach because we felt that other peaceful avenues could be explored. We felt that a diverse and flexible strategy designed to capitalize on public support and media coverage was preferable to eliminating all other options, thus making a confrontation inevitable.
>
> A provisional injunction was finally granted in early July [to the Municipality ordering the Mohawks remove the barricades] and daily threats were made to remove the barricades, although once again the Municipality did not try to do so.

> We tried repeatedly to arrive at a consensus on how to achieve our objective, but to no avail. Finally, at a meeting in The Pines on or about July 5, when we realized the futility of our efforts, we decided to leave The Pines and continue to lobby through peaceful means. (Issue No. 53:55, 56)

This testimony reveals some individuals within the Longhouse at Kanesatake took a decision to use armed resistance sometime around July 5, 1990. These people often known as the "People of The Pines" or the "Longhouse People of The Pines" have carefully insisted they were not and are not a "breakaway" Longhouse. The testimony of Allen Gabriel reveals the presence of "supporters" who were present in The Pines at the time of the July 11 raid. By "supporters", Mr. Gabriel was presumably referring to persons who were not members of the Longhouse at Kanesatake but were supportive of Kanesatake land rights.

In answer to a question about the relationship between the People of The Pines and the Longhouse headed by Chief Samson Gabriel, Mr. Allen Gabriel stated:

> I guess there could be some confusion and an impression that there are two Longhouses in Kanesatake. Previous witnesses stated that there is a Longhouse in Kanesatake. There is a condoled chief and he [Samson Gabriel] is sitting before you today. At the time of the raid there were people in The Pines who are members of the Longhouse. There were also people in The Pines who are supporters of the whole stand this summer, so that may be where some of the confusion is coming from. The name The Longhouse People of The Pines—I am guessing here— but I imagine it came up so that when the media is there and people are talking to them, it is automatically related back to the issue of The Pines. To be quite brief there is one Longhouse in Kanesatake. Some of the people who testified here were the ones who were there that morning [July 11, 1990] and they presented their perspectives on what they saw, what they were involved in. (Issue No. 53:70)

It appears that while the People of The Pines recognize Samson Gabriel as the legitimate Chief of the Longhouse of Kanesatake, there was a difference of opinion within the Longhouse over the critical issue of armed confrontation: The People of The Pines supported the use of arms and Chief Samson Gabriel and others did not.

A meeting between the Municipality and the Honourable Tom Siddon occurred on the 28th of June. Another injunction was obtained by the Municipality on June 29th and the judge compared the situation at the barricades to a state of anarchy.

From July 2 to July 6, 1990 there were public announcements by the Municipality and the provincial Minister of Public Security warning the Mohawks to take down the barricades. On July 8th, La Presse newspaper carried a story on the front page "Resistance Hardens At Oka" with photographs showing armed and masked warriors.

On July 9, 1990 Mr. Ciaccia sent a letter to the mayor, which he publicly released the following day. The letter requested an indefinite suspension of the golf course project to allow the Mohawk people to take down their barricades. The Minister tried to explain that

the situation involved more than strict questions of legal rights because of the fundamentally different historical perspective of native people. This letter was not well received by the Municipality which concluded that the Minister had been swayed by radicals. On the 10th of July, the Oka Municipal Council requested the assistance of the Sûreté du Québec by addressing the Director-General of the Sûreté du Québec, Robert Lavigne. In its written brief to the Committee, the Municipality of Oka stated that this request read (in part):

> We ask you, therefore, to put a stop to the various criminal activities currently taking place on the Chemin du Mille and to arrest the authors of the crimes so that we can proceed with re-establishing the recreational use of the occupied lands.
>
> You are hereby officially informed that we are prepared to clean up the public lands, but we will not be able to do so until you have restored public safety in the occupied territory.
>
> We are counting on you to settle the issue without further delay and without further requests from us.

On the 11th of July, the Sûreté du Québec "decided to intervene", in the words of the Municipality of Oka.

In retrospect, one can detect an escalating pattern of conflict beginning in early 1987 over an important issue of land use. This conflict found plenty of fuel in unresolved native grievances, inter-racial tension and the tension within the Mohawk community itself. Eventually, the controversy over land use in The Pines became symbolic of Mohawk land rights in general. This pattern of escalating conflict continued until the shaky state of peace that managed to hold from early 1987, was completely shattered by the events of July 11, 1990.

IV. EVENTS FOLLOWING JULY 11, 1990

When the Longhouse people of The Pines appeared before the Committee on March 6, 1991, they carefully asserted their sovereignty, accused the various governments of invading their land without provocation on their part, and of using the issue of law and order to obscure the fundamental issues of land rights and sovereignty. Mary David/ Kasenenhowi stated: "We are here today to assert our sovereignty and to state that the crisis of last summer was really only a sideshow created by your government in order to camouflage problems that existed long before July 11, 1990, that it chose to leave unaddressed." (Issue No. 51:6)

On the morning of July 11, 1990 an exchange of gunfire occurred between the provincial police, the Sûreté du Québec, and armed persons behind the barricade in The Pines. It is an undisputed fact that Corporal Lemay died from gunshot wounds received during this exchange of gunfire. The question of responsibility for the death of Corporal Lemay and related issues such as which side fired first and for what reasons are not issues the Standing Committee is equipped or suited to answer. The Longhouse delegation played an audiotape of the morning's events for the Committee's benefit but without any detailed verbal explanation by this witness group or others, the Committee is not in a position to say much about what happened the morning of July 11, 1990. This is not the fault of the witnesses who kindly shared their perspectives on many important matters but is a reality arising from ongoing proceedings in the courts. The Committee's inquiry and witness testimony were necessarily limited by the existence of outstanding criminal proceedings relating to the conflict between police and Mohawk people in The Pines.

The most common recommendation of witnesses has been a call for an independent inquiry to thoroughly explore the facts, events and issues around the 1990 Oka conflict. While commending the Standing Committee's work, many witnesses saw a need for a critical fact–finding exercise that would go beyond the powers, resources and time available to a Parliamentary Standing Committee. Such an inquiry would be more detailed than that possible by the Standing Committee and would be broader in scope than any criminal proceedings arising from the summer's events, as such proceedings will be strictly limited to facts relevant to particular criminal charges against particular individuals. In addition to satisfying the right of the Canadian public to know exactly what happened during the summer of 1990 and why, the resolution of some policy issues would be aided by a careful investigation of facts that are likely not available except through an inquiry process.

Many of the Mohawk people indicated that they were not especially surprised by what happened on July 11th, as they saw it as part of a longstanding, deep rooted conflict between nations and cultures, a conflict that in their view has either been ignored or mismanaged from its inception. Several witnesses suggested that racism and widespread ignorance of native cultures and histories were major contributors to the development of

serious conflict. Other witnesses, while acknowledging these factors felt that some residents of Kanesatake had become influenced by members of the Mohawk Warrior Society and accused "outsiders" of using Kanesatake for their own personal and political gain. Representatives of the federal government have repeatedly expressed this view.

It seems that some, though a minority, of residents at Kanesatake supported the strategy of armed resistance from the beginning. It is not clear to what extent the community as a whole was involved in the decision to arm the barricade in The Pines. Following the experience of the police raid on July 11th, the community was suddenly galvanized into a state of unity by the traumatizing effect of an outside threat. For the duration of the armed standoff, the community appeared to be united on central issues of land rights, sovereignty and relations with non-native society. The continued negative experience with the provincial police and the armed forces seemed only to reinforce this reaction. Allegations of human rights violations against the police and the army have been widespread and persistent.

From the governments' viewpoint, the use of the police and the army was essential to the maintenance of law and order in the communities affected by the crisis. From the viewpoint of the Mohawk people and First Nations across the country, the actions of the provincial police on July 11, 1990 and the use of the armed forces at Oka, Quebec is very much connected to the issue of Mohawk land rights. Native people are aware of the dangerous situation that prevailed in Oka, Châteauguay, Kahnawake and Kanesatake last summer. There were expressions of racial prejudice and hatred against indigenous people across the country during the summer. The presence of the army was initially welcomed by native people as a possible means of de-escalating a precipitous and dangerous course of events. However, as the summer wore on, there were complaints from native people about the army's actions as well. There is a general concern that police assaults and the use of the army as an aid to civil power may be used again in what has generally been, prior to 1990, a more peaceful battle of wills and principles.

The use of the National Defence Act as an aid to civil power is likely to be controversial in any circumstance but all the more so in circumstances arising from a native land rights dispute. Additional concerns about accountability and cost have been raised. The following issues were raised by witnesses and provide background to Recommendation no. 2 of this Report:

a) the mandatory nature of the statutory obligation of the Government of Canada to dispatch forces once requested by the Attorney-General of a Province

b) the discretion given the Chief of Defence Staff to decide the size and nature of the force to be provided

c) the need for procedural protection and review mechanisms before, during and after the use of armed forces in aid of a civil power

d) a review of the requirements necessary to trigger use of the armed forces in aid of civil law enforcement agencies

e) financial responsibility for the use of armed forces in aid of civilian police forces

f) the need for amendments to require an Attorney–General of a Province to establish reasonable grounds for use of the force

g) the need for a requirement of consultation with federal political authorities (Parliament or the Cabinet) before Armed Forces can be used in this manner

h) the need for an express requirement that the Chief of Defence Staff consult with federal political authorities before sending troops and before deciding size and nature of force

i) the need for Parliamentary review at one or more or all stages of this crucial decision–making process

j) the need for a federal role in deciding when military aid is no longer required

k) the timing and contents of any report from the Province concerned

l) whether the Department of the Secretary of State is the most appropriate destination for report(s) from the Province concerned (e.g. the federal Minister of Justice may be more appropriate)

m) whether the Act should allow the federal government to seek more details in formal reporting from a Province

n) whether there should be Parliamentary review and approval of expenditures for this purpose

o) whether there should be provision to ensure some independent human rights body has jurisdiction to hear and deal with complaints of human rights violations made against the Armed Forces

p) the ability of the Armed Forces to deal with conflicts involving native rights and whether Armed Forces personnel receive proper training in race relations

With respect to the negotiation process that followed July 11, each party demonstrated great tenacity in maintaining entrenched positions: statements and proposals were redrafted throughout the summer to say essentially the same things, with the exception of the Six Nations Iroquois Confederacy in its role as an intermediary. In fact, the main actors frequently pointed out with some pride that their positions had not changed from the beginning of the crisis.

There was in the end, a head on collision between competing assertions of sovereignty. This is most clearly demonstrated by the unqualified sovereignty position of the Longhouse People of The Pines, and the fact that the contract of one of the federal negotiators specifically required that negotiations would be conducted on the basis of domestic policy rather than recognition of Mohawk sovereignty in the international sense.

Across the country the land rights of indigenous people have become intertwined with questions regarding residual sovereignty that may or may not be recognized or entrenched under the Constitution. Indigenous people cannot see how they can exercise any real collective land rights without jurisdiction over the land itself. The vast majority of First Nations seek recognition, under the Constitution, of First Nations jurisdiction over their own communities. The positions taken by the Longhouse people suggest on the other hand, an unqualified assertion of sovereignty, making constitutional reform irrelevant from this perspective.

The holistic worldview of many indigenous cultures means that concepts such as land and self–government or sovereignty are often inseparable. They are viewed as ideas so fundamentally linked that they cannot be compartmentalized into neat manageable policy areas to suit the convenience of negotiators. The Mohawk insistence on expressing their positions in terms that implied sovereignty was continually interpreted by government as clear evidence of bad faith. From the Mohawk perspective, the persistent refusal of federal and provincial governments to discuss any Mohawk proposal involving an implicit assumption of residual sovereignty was insulting.

A representative of the Longhouse People of The Pines stated that in appearing before the Standing Committee, the Mohawk people were not there to prove their sovereignty, they were there to assert it again as they have done many times in the past. Government negotiators had their instructions not to negotiate any terms involving an implicit acknowledgement of Mohawk sovereignty. Mohawk negotiators would not negotiate any agreement that did not include some room for Mohawk jurisdiction or shared Mohawk–Canada/Quebec jurisdiction on the fate of the People in The Pines. In very different ways, sovereignty was not "on the table" for the negotiators on each side. In addition, the most firmly held belief of all parties was that the other side of the negotiating table had no real intention to negotiate. Perhaps the most dearly held goal was to avoid making any significant change in position. In this the negotiating parties were united.

While the commitment to armed struggle was not widespread in terms of active participants of the total population of Kanesatake, it is too early to conclude what long term political or other effects the experience will have on the community. The Kanesatake Emergency Measures Committee submitted evidence on the impact of stress on the community, particularly the children of Kanesatake. Federal assistance in a healing process has been requested. The Committee was also briefed on the negative impacts of the conflict on Oka, Châteauguay and other communities in the area. There is no question that the trauma and losses of communities and individuals have been real and that in many ways the Oka crisis is not over for many people.

V. CONCLUSION

Before July 11, 1990, the use of arms by First Nations people in the contemporary struggle for land rights was almost unprecedented. Only the future will reveal the significance of the past summer in the larger national context of indigenous peoples' rights. However, that future is fast approaching. The Committee understands that aboriginal affairs issues, including Mohawk government and land issues, present an enormous challenge. Further, Canada must build greater expertise in the field of race relations and police relations. Despite the complexities and the many obstacles to progress, some substantive policy change is required immediately. And it is precisely because there are genuinely held yet differing perspectives on critical issues, that there must also be continuing national discussion to pave the way for further progress. Goodwill alone will not stem a rising tide of alienation, frustration and anger.

There is a deep well of public support for First Nations people on the issues of land rights and self-government. There is an equally deep commitment to the principle of non-violent social and political change. The armed standoff at Kanesatake and Kahnawake triggered conflicting emotions as Canadians tried to reconcile their support in these two areas. In the end, it seems clear that support across the country for the peaceful struggle of indigenous people and the general cause of peaceful conflict resolution remains deeply entrenched in the public mind. Canadians want to see justice achieved for aboriginal people in Canada but will not accept any side of the negotiating table resorting to the use of arms as a negotiating technique or as a fail-safe for a lack of creativity, goodwill or negotiating skill. In a world of competing interests and often conflicting perspectives and values, peaceful conflict resolution is the only real guarantee of human rights and good government.

What happened on July 11th, 1990 at Kanesatake and Kahnawake and why? This is the question the Standing Committee on Aboriginal Affairs has had before it since October, 1990. While the Committee cannot answer all the questions arising from these events, there are some facts and issues that plainly present themselves and from which the Committee can draw conclusions.

There was some evidence before the Committee that armed Warriors began to arrive at the barricade in The Pines—days, perhaps weeks before July 11, 1990. There was also evidence from other witnesses present in the area at the time that they saw no sign of arms around the initial barricade before that date. Evidence suggests that on the morning of July 11th, there was an exchange of gunfire and that some people were in a position to respond with weapons to the armed movement of the Sûreté du Québec. On what day did weapons and the persons using them arrive ? What degree of community involvement was there in the decision to enter into an armed confrontation? These are not questions the Committee is able to answer conclusively from the information available to it.

If a decision was taken in advance of July 11 to arm persons at The Pines barricade, it is not clear by exactly what process in the Mohawk community it was decided to convert a peaceful blockade on a minor recreational road into a barricade defended by persons with semi-automatic assault rifles. Was there community consensus or a majority in favour of taking up arms? We don't know. We can say there was something less than unanimity on the point, within the community of Kanesatake as a whole, within the Longhouse at Kanesatake and within the Mohawk nation. Further, the use of arms and the role of the Warrior Society were controversial issues and remain so.

Equally mystifying, is that no level of government appears to claim responsibility for ordering the police assault on the barricade in The Pines early on July 11, 1990 when armed Warriors as well as unarmed women and children were present. The Municipality of Oka and the provincial government have said that in the week before the assault, there was a general expectation that police would act to deal with what was regarded as a breach of law and order. However, all levels of government have publicly denied having advance knowledge of exactly when and how the police raid would be conducted. How did this jurisdictional vacuum arise? No one has answered this question or provided the Committee with sufficient information to draw a conclusion.

The Committee was struck by the fact that several key parties involved in the standoff, have indicated they would not change their actions if they faced the same situation again. In this sense, while everyone on all sides deplores the lasting trauma suffered by the many children involved, deplores the use of violence, and deplores the loss of life, neither side to the dispute has taken much responsibility for ensuring history does not repeat itself. The Committee believes this is not a conclusion Canadians will accept. The creative use of effective non-violent strategies for political and social change is always a viable option and in this era, restraint, sensitivity and effective communication at all levels of government should be able to defuse highly charged situations before they degenerate into physical conflict. It is clear that the parties on each side of the conflict must re-evaluate their actions and consider whether the sacrifice of human rights and human life, borne by innocent people, native and non-native, was in fact truly inevitable in the sense that there was nothing they could have done differently to achieve their ends with less destructive consequences.

The Standing Committee is convinced that the tragedy that played throughout the summer of 1990 was avoidable. All parties involved must take responsibility for allowing this dispute to be converted into a military and criminal law issue. Action must be taken by First Nations leadership and government at all levels to avoid this from happening again.

VI. RECOMMENDATIONS

Many Canadians, most particularly aboriginal people, worry that some proposals for change may instead become excuses for delay in achieving real change. There is also a fear that any delay in government action on the aboriginal affairs agenda may lead to a further deterioration in relations between indigenous people and the federal and provincial governments and other Canadians. Therefore, the Government of Canada should continue, at the fastest pace possible, to reform aboriginal policies in consultation with aboriginal people and any recommendation included in this Report should not be used by any government, or by native leadership, as a reason to delay taking further constructive steps.

NATIONAL ISSUES

1. Royal Commission On First Nations In Canada

The Government should undertake a consultation process with aboriginal people in Canada on the make-up, mandate and conduct of the Royal Commission proposed below.

The Standing Committee on Aboriginal Affairs recommends that the Government immediately establish, under Part I of the Inquiries Act, a Royal Commission to inquire into and report upon the relations of First Nations with other Canadians, including but not limited to the following subject-matters:

(i) constitutional reform taking into account current constitutional developments;

(ii) constitutional and practical aspects of self-government, including the recognition of an inherent right to self-government;

(iii) the fiduciary responsibility of the federal government to First Nations;

(iv) the concerns and needs of young aboriginal people including their future economic and lifestyle opportunities;

(v) with respect to comprehensive claims policy, the inclusion of self-government agreements as part of land claim settlements;

(vi) the significance for Canadian policy of international human rights standards dealing with indigenous rights.

The terms of reference should include a requirement to make interim reports and timely recommendations on any of the subject-matters falling within its mandate.

The Standing Committee on Aboriginal Affairs recommends that the Government empower the Commission to appoint working groups on specific issues, each headed by a Member of the Commission. The working groups should reflect a balanced representation from all regions of the country and aboriginal people.

The purpose of the working groups would be to examine specific subjects and to report to the Commissioners. These areas could include native justice, comprehensive land claims, socio-economic issues, human rights, the Indian Act, diverse taxation issues, sovereignty, land entitlement, federal-provincial relations issues affecting indigenous people, and other issues.

In the context of constitutional reform, the Commission should be specifically mandated to examine models in other countries such as the "domestic dependent nations" model in the United States, the Saami Parliament in Norway and the status of indigenous people in the Parliaments and under the Constitutions of New Zealand and Australia.

2. Review of the National Defence Act

The Standing Committee on Aboriginal Affairs recommends that an Order of Reference be issued to a Committee of the House to review Part XI of the *National Defence Act* in light of concerns about the need for stronger review mechanisms and additional reporting requirements respecting the use of the armed forces as an aid to a civil power.

3. Federal Land Claims and Dispute Resolution

The Standing Committee on Aboriginal Affairs recommends the Government take the following action affecting land claims policy, subject to consultations with aboriginal people:

(i) Establish a body independent of government to conduct an independent review of the validity of claims and to make recommendations to the Government on acceptance of claims for negotiation;

(ii) Establish a judicial tribunal independent of government to deal with the validity of specific claims and to recommend compensation required to meet valid claims;

(iii) Establish an independent body to monitor and review the implementation of claims policy and of claims agreements to ensure fairness;

(iv) Establish a National Mediation Service, independent of the Department of Indian Affairs and Northern Development and of the Department of Justice, composed of expert mediators in each region of the country acceptable to the parties involved. These people would be made available to apply their mediation skills to prevent local land use conflicts from expanding into larger disputes.

These four functions could be performed by the same institution.

KANESATAKE SPECIFIC ISSUES

4. Mohawk Government Issues

The Standing Committee on Aboriginal Affairs recognizes that one of the challenges faced by the Kanesatake community is that of a leadership process. It will be very difficult, if not impossible, to deal with conflicts between Kanesatake and other communities and governments, unless the question of internal governance is resolved. As noted by some witnesses, the responsibility for resolving this circumstance rests primarily with the residents of Kanesatake. The Standing Committee on Aboriginal Affairs recommends that the Government of Canada ensure that the Six Nations "Iroquois" Confederacy be involved and consulted in the process of seeking a resolution of governance issues.

5. Independent Judicial Inquiry Into Certain Native Issues In Quebec

There are different perceptions regarding the administration of justice in the Province of Quebec as it affects indigenous people.

Therefore the Standing Committee on Aboriginal Affairs recommends that the Government of Canada establish an independent judicial inquiry under Part I of the Inquiries Act, inviting the participation of the Province of Quebec, and charged primarily but not exclusively, with looking into:

(i) the events of the summer of 1990;

(ii) all other policing and justice issues affecting aboriginal people;

(iii) other areas of conflict affecting native and non-native communities in the Province of Quebec.

6. Land Use Conflict Resolution at Kanesatake

The Standing Committee on Aboriginal Affairs recommends that the Government approach the parties regarding the advisability of putting in place a process to deal with conflicts between municipalities and Mohawk authorities over land use issues affecting both communities, without prejudice to land claims. The Committee recommends the appointment of a mediator, upon the joint approval of the parties concerned, to facilitate discussions over land use matters such as zoning and other municipal concerns. The Committee also recommends the appointment of an arbitrator, jointly agreed upon, to make binding decisions where negotiations and mediation do not resolve the conflict.

7. Healing and Compensation

The Standing Committee on Aboriginal Affairs recommends that urgent steps be taken to provide healing and compensation measures for the communities involved, and particularly to deal with the effect of the summer's events on young people.

The Standing Committee on Aboriginal Affairs will monitor government action on these recommendations and may review these issues.

APPENDIX A
WITNESSES AT PUBLIC HEARINGS

Organizations and Individuals	Date	Issue
The Honourable Kim Campbell, Minister of Justice and Attorney General of Canada	January 31, 1991	46
Kanesatake Emergency Measures Committee: Linda Simon; Gordon Oke; Joyce Nelson.	January 31, 1991	46
The Honourable Tom Siddon, Minister of Indian Affairs and Northern Development	February 19, 1991	47
Department of Indian Affairs and Northern Development: Harry S. Swain, Deputy Minister; Fred R. Drummie, Associate Deputy Minister; Roger Gagnon, Assistant Deputy Minister, Lands, Revenues and Trusts, Northern Development.	February 19, 1991	47
Six Nations Iroquois Confederacy: Chief Oren Lyons; Chief Harvey Longboat; Paul Williams, Legal Counsel.	February 20, 1991	48
The Citizen Observer Group: Kim Leduc; Marilyn Roper; Johanna Warden Abrahams; Anne Kettenbeil; Claude Moise.	February 20, 1991	48
Six Nations Traditional Hereditary Chiefs: Jacques Lacaille, Legal Counsel; Chief Jerry Etienne; Grand Chief George Martin.	February 20, 1991	48

Organizations and Individuals	Date	Issue
Native Council of Canada: Dr. Viola Robinson, President; Dwight Dorey, President of Native Council of Nova Scotia; Ernie Crey, Vice–President, United Native Nations; Robert Groves, Special Advisor; Yves Assiniwi, Consultant.	February 20, 1991	48
North American History and Contemporary Issues: Kahn–Tineta Horn; Francis Dione, Bear Clan Mother; Richard Two Axe; Waneek Horn Miller.	February 21, 1991	49
Six Nations Council: Chief William K. Montour; Greg Sandy, Councillor; Phillip Montune, Research Director.	February 21, 1991	49
Châteauguay City Hall: Jean–Bosco Bourcier, Mayor of Châteauguay; Michael W. Hackett, Municipal Councillor; Gaétan Beaudoin, Director for Public Security; Danielle DeGarie, Chief of Communications.	February 21, 1991	49
United Church of Canada: Dr. Glenys Huws, Program Staff for Human Rights and Justice, National Division of Mission of Canada; Reverend Burn Purdon, President, Montreal and Ottawa Conference; Arlene Delaronde, Member, Kahnawake United Church; Reverend Faye Wakeling, Director, St. Columba House, Montreal; Reverend Pierre Goldberger, Principal, United Theological College, Montreal.	February 21, 1991	49

Organizations and Individuals	Date	Issue
Individuals: Reverend Susan Eagle, United Church of Canada; Reverend Peter Hoyle, United Church of Canada.	February 21, 1991	49
Canadian Association of Journalists: Julian Sher, President; Charles Bury, Chairman; Lorreen Pindera, Director.	February 21, 1991	49
Union of British Columbia Indian Chiefs: Chief Saul Terry, President; Lawrence Pootlass, Hereditary Chief.	March 5, 1991	50
Kanesatake Longhouse Peoples of the Pines: Marie David; Ellen Gabriel; John Cree, Spiritual Leader; Walter David Sr.; Susan Oak; Deborah Etienne; Robert St–Louis, Legal Counsel.	March 6, 1991	51
Indigenous Bar Association: Don Worme, President; David Nahwegahbow, Secretary Treasurer; Darlene Johnston, Member, Professor, Faculty of Law, University of Ottawa; Gérard Guay, Member, Quebec Bar Association.	March 7, 1991	52
Human Rights Commission: Max Yalden, Chief Commissioner.	March 7, 1991	52
Mohawk Council of Akwesasne: Chief Angie Barnes; Chief Lynn Roundpoint; Salli Benedict, Historian.	March 7, 1991	52

Organizations and Individuals	Date	Issue
Oneida Mohawk Nation: Morris Gabriel; Walter David Jr.; Joe Deom; Faithkeeper Kanasarakah; Chief Terry Doxtator; Sub–Chief Robert Antone; Faithkeeper Bruce Elijah; Mike Myers.	March 12, 1991	53
Longhouse of Kanesatake: Condoled Grand Chief Samson Gabriel; Curtis Nelson; Allen Gabriel.	March 12, 1991	53
Assembly of First Nations: Chief Ovide Mercredi, Manitoba Vice–Chief; Chief Gordon Peters, Ontario Vice–Chief.	March 12, 1991	53
Former Administrative Head of the Kanesatake Council: Dan Gaspé.	March 13, 1991	54
***Association des propriétaires à l'intérieur de Kanesatake*:** Jean Jolicoeur; Marcelle Normandeau; Réjean Mongeon; Richard Foucault.	March 13, 1991	54
***Regroupement pour la protection de l'Environnement d'Oka*:** Jean–François Meilleur; Helga Mater.	March 13, 1991	54
Individual: Michel Girard, Historian.	March 13, 1991	54
Parish of the Village of Oka: Yvan Patry, Mayor; Yves Renaud, Deputy Mayor.	March 19, 1991	55

Organizations and Individuals	Date	Issue
Municipality of the Village of Oka: Jean Ouellette, Mayor; Gilles Landreville, Alderman; Luc Carbonneau, Lawyer; Claude Paquette, Alderman.	March 19, 1991	55
Department of National Defence: General A.J.G.D. de Chastelain, Chief of the Defence Staff; Lieutenant–General K.R. Foster, Commander of Mobile Command; Brigadier–General A. Roy, Commander 5e Groupe–brigade du Canada; Commodore P.R. Partner, Judge Advocate General.	March 19, 1991	55
River Desert Band: Chief Jean–Guy Whiteduck; René Tenasco, Legal Counsel.	March 20, 1991	56
Centre for Research–Action on Race Relations: Fo Niemi, Executive Director; Richard Daignault, Member of the Board; Lorna Roth, Member of the Board.	March 20, 1991	56
Okanagan Nation: Joan Phillip, Director Tribal Council.	March 20, 1991	56
Grand Council of the Crees: Deom Saganash, Executive Chief; Bill Grodinsky, Legal Counsel; Bill Namagoose, Executive Director.	March 21, 1991	57
Waskaganish Band: Chief Billy Diamond.	March 21, 1991	57
The Honourable Pierre H. Cadieux, Solicitor General of Canada.	March 21, 1991	57
R.C.M.P.: N.D. Inkster, Commissioner.	March 21, 1991	57

Organizations and Individuals	Date	Issue
Wawatay Native Communications Society: Paul M. Rickard, Senior T.V. Producer, Wawatay Cree; Andrew J. Poonae, Senior Radio Producer, Wawatay Television.	March 26, 1991	58
University of Western Ontario: Errol P. Mendes, Associate Professor, Faculty of Law.	March 26, 1991	58
Algonquin Council of Western Quebec: Grand Chief Jimmy Hunter	March 26, 1991	58
– Barriere Lake: Chief Jean–Maurice Matchewan.		
– Wolf Lake: Russel Diabo; Advisor; Gérard Guay, Legal Counsel.		
***Mouvement pour la paix et la justice à Oka et Kanesatake*:** Myra Cree, Sr.; Myra Cree, Jr.; Lucie Masse; Gilles Vézina; Gérard Bertrand.	March 26, 1991	58
***Rassemblement des Citoyens d'Oka*:** Guy Dubé; Lisette Lagacé.	March 26, 1991	58

APPENDIX B
SUBMISSIONS

Aboriginal Rights Coalition (Project North)

Alain Bissonnette, Anthropologist and Lawyer, Atikamekw and Montagnais Council

Canadian Federation of Students

Canadian Labour Congress

Friends of First Nations (McGill)

J. Jaenen, Ph.D., L.L.D., Professor of History, Faculty of Arts, University of Ottawa

Kanesatake Mohawk Coalition

J. Ross Knechtel

Livingston Nicholas

David Pedersen

Gerald Penny, Archaeologist

Alvin M. Schrader, PhD, Associate Professor of Library and Information Studies, University of Alberta, Edmonton

Linda Simon

Donald B. Smith, Professor of History, Faculty of Social Science, University of Calgary

Peter J. Waddell

The Committee also received substantive documentation from the Department of Indian and Northern Development and from the Department of the Solicitor General of Canada. In addition "La Commission des droits de la personne du Québec" forwarded to the Committee a copy of its report: *Oka–Kanesatake Été 1990, Le Choc Collectif.*

REQUEST FOR GOVERNMENT RESPONSE

Your Committee requests that the Government table a comprehensive response to this Report in accordance with the provisions of Standing Order 109.

A copy of the relevant *Minutes of Proceedings and Evidence* of the Standing Committee on Aboriginal Affairs (*Issues Nos. 46 to 59, which includes this Report*) is tabled.

Respectfully submitted,

Ken Hughes,
Chair

MINUTES OF PROCEEDINGS

TUESDAY, APRIL 9, 1991
(95)

[Text]

The Standing Committee on Aboriginal Affairs met *in camera* at 10:15 o'clock a.m. this day, in Room 536 Wellington, the Chairman, Ken Hughes, presiding.

Members of the Committee present: Ethel Blondin, Ken Hughes, Robert Nault, Robert Skelly and Stanley Wilbee.

Acting Member present: Marc Ferland for Gabriel Desjardins; Blaine Thacker for Wilton Littlechild.

In attendance: *From the Research Branch of the Library of Parliament*: Teressa Nahanee, Consultant; Wendy Moss and Rolande Soucie, Research Officers.

The Committee resumed consideration of its Order of Reference from the House of Commons dated October 22, 1990 relating to the events at Kanesatake and Kahnawake during the summer of 1990. (*See Minutes of Proceedings and Evidence for Wednesday, November 7, 1990, Issue No. 44.*)

The Committee commenced consideration of a draft report.

At 1:30 p.m., the Committee adjourned to the call of the Chair.

WEDNESDAY, APRIL 10, 1991
(96)

The Standing Committee on Aboriginal Affairs met *in camera* at 4:00 o'clock p.m. this day, in Room 536 Wellington, the Chairman, Ken Hughes, presiding.

Members of the Committee present: Ethel Blondin, Ken Hughes, Robert Nault and Stanley Wilbee.

Acting Member present: Marc Ferland for Gabriel Desjardins; Blaine Thacker for Wilton Littlechild; Ray Funk for Robert Skelly.

In attendance: *From the Research Branch of the Library of Parliament*: Teressa Nahanee, Consultant; Wendy Moss and Rolande Soucie, Research Officers.

The Committee resumed consideration of its Order of Reference from the House of Commons dated October 22, 1990 relating to the events at Kanesatake and Kahnawake during the summer of 1990. (*See Minutes of Proceedings and Evidence for Wednesday, November 7, 1990, Issue No. 44.*)

The Committee resumed consideration of a draft report.

It was agreed,—That the Committee retain the professional services of Georges Royer to edit the draft report of the Committee study on the events at Kanesatake and Kahnawake during the summer of 1990, for a maximum amount of $5,000.00 for a period ending May 10, 1991.

At 6:10 p.m., the Committee adjourned to the call of the Chair.

WEDNESDAY, APRIL 17, 1991
(97)

The Standing Committee on Aboriginal Affairs met *in camera* at 10:25 o'clock a.m. this day, in Room 269 West Block, the Chairman, Ken Hughes, presiding.

Members of the Committee present: Ethel Blondin, Ken Hughes, Allan Koury, Wilton Littlechild, Robert Nault and Robert Skelly.

Acting Member present: Scott Thorkelson for Stan Wilbee; Marc Ferland for Gabriel Desjardins.

In attendance: *From the Research Branch of the Library of Parliament*: Teressa Nahanee, Consultant; Wendy Moss and Rolande Soucie, Research Officers.

The Committee resumed consideration of its Order of Reference from the House of Commons dated October 22, 1990 relating to the events at Kanesatake and Kahnawake during the summer of 1990. (*See Minutes of Proceedings and Evidence for Wednesday, November 7, 1990, Issue No. 44.*)

The Committee resumed consideration of a draft report.

At 12:30 p.m., the sitting was suspended.

At 1:17 p.m., the sitting resumed.

At 3:05 p.m., the sitting was suspended.

At 3:15 p.m, the sitting resumed.

At 5:30 p.m., the Committee adjourned until 11:00 a.m. April 18, 1991.

THURSDAY, APRIL 18, 1991
(98)

The Standing Committee on Aboriginal Affairs met *in camera* at 11:15 o'clock a.m. this day, in Room 269 West Block, the Chairman, Ken Hughes, presiding.

Members of the Committee present: Ken Hughes, Allan Koury, Wilton Littlechild, Robert Nault and Robert Skelly.

Acting Member present: Marc Ferland for Gabriel Desjardins.

In attendance: *From the Research Branch of the Library of Parliament*: Teressa Nahanee, Consultant; Wendy Moss and Rolande Soucie, Research Officers.

The Committee resumed consideration of its Order of Reference from the House of Commons dated October 22, 1990 relating to the events at Kanesatake and Kahnawake during the summer of 1990. (*See Minutes of Proceedings and Evidence for Wednesday, November 7, 1990, Issue No. 44.*)

The Committee resumed consideration of a draft report.

It was agreed,—That the Committee request a comprehensive response from the Government in accordance with Standing Order 109.

It was agreed,—That, in addition to the 550 copies printed by the House, the Committee print 15,000 copies of its Report in tumble format.

It was agreed,—That the transcripts of all in camera meetings be destroyed by the Clerk of the Committee after the Committee's Report has been tabled or at the end of the present Parliament, whichever occurs first.

It was agreed,—That a Press Conference be held after the Report is presented to the House or to the Clerk of the House.

It was agreed,—That the list of witnesses who appeared before the Committee and the list of individuals who made submissions be printed as appendices in the Report.

It was agreed,—That the Draft Report, as amended, be the Committee's Report to the House.

It was agreed,—That the Chairman be authorized to make such grammatical and editorial changes to the Report as may be necessary without changing the substance of the Report.

It was ordered,—That the Chairman present the Report to the House or the Clerk of the House, pursuant to the order of the House adopted on December 19, 1990.

At 1:15 p.m., the Committee adjourned to the call of the Chair.

Normand Radford
Clerk of the Committee