

# CANACE – Canadian Advocates for Charter Equality

When Freedom demands action

[www.canace.ca](http://www.canace.ca)

PRESENTATION TO:

City of Brantford, Public Forum Committee  
Sept 29, 2008

## **Reconciliation: the CANACE Path**

Merlyn Kinrade, Treasurer/Caledonia Liaison  
Mark Vandermaas, VP/Director of Research

[info@canace.ca](mailto:info@canace.ca)



**Three Founding Nations – One Constitution**

## A. ABOUT CANACE:

### 1. **Objective: Provide accurate information on CANACE activities:**

Short term goal: Preserve the rule of law and Ontario's economy by ending race based policing and land claim lawlessness.

Long term goal: Force politicians to pass legislation to ensure th is never happens again. We must create a province and a country where true reconciliation between natives and non - natives is possible based on truth, justice and respect for the rights of all human beings.

- Organize public protests in support of civil right s and racially-equal law enforcement.
- Provide information to public (cited by Ryerson Review of Journalism, National Post).
- Assist victims of lawlessness and race -based policing in telling their stories and seeking justice, i.e. filing private prosecutions under Criminal Code; OCCPS complaints; OHRC complaints; lawsuits.
- Document events, conduct research and prepare detailed reports.

The Cost of Illegal Occupations

Legalized MYTHS of Illegal Occupations [7] (10,000+ downloads since May 2008)

The Human Costs of Illegal Occupations [8] (30,000+ downloads since Dec 2007)

The Ipperwash Papers project ([www.ipperwashpapers.ca](http://www.ipperwashpapers.ca))

Actually, we who engage in nonviolent direct action are not the creators of tension. We merely bring to the surface the hidden tension that is already alive. We bring it out in the open, where it can be seen and dealt with. Like a boil that can never be cured so long as it is covered up but must be opened with all its ugliness to the natural medicines of air and light, injustice must be ex posed, with all the tension its exposure creates, to the light of human conscience and the air of national opinion before it can be cured.

Martin Luther King Jr., Letter from Birmingham Jail, April 16/63 (see *Lessons from Dr. King*, attached [4])

### 2. **Objective: Address false allegations by OPP linking us to violence:**

- Sworn testimony by OPP detective: we are not violent; our protests are not violent; no one has been injured at our protests; we promote lessons of Martin Luther King Jr.

OPP Detective John Murray cross-examination, Dec 14/07

Ontario Court of Justice transcript, p41, 46-47, 59 [5]

- Sworn testimony by Haldimand Mayor Marie Trainer: McHale not a danger; sees him trying to be an advocate for people of Caledonia.

Haldimand Mayor Marie Trainer testimony, Dec 24/08

Ontario Court of Justice transcript, p14-16, 18 [6]

- Mayor Trainer's remarks re Gary McHale candidacy in Haldimand -Norfolk:

"Despite the OPP's and the McGuinty government's attempts to cast McHale as a troublemaker, Haldimand Mayor Marie Trainer thinks his candidacy is positive. With McHale in the race, Trainer says Haldimand's quest for peace, law and order, stability and justice will feature prominently in the coming campaign. She says McHale will force the other candidates to state t heir position on the issue of two-tiered justice. He will keep the land claims issue in the forefront.""

Brantford Expositor/Simcoe Reformer, Sept 04/08: *McHale seeks H-N seat in federal election*

## B. KEY INFLUENCES

**Objective: Provide insight on key influences affecting conduct of OPP, Ontario government, and native protesters.**

**1. Reliance on Ipperwash Inquiry:** Government, OPP and native protesters ignore the parts they don't like (Police Discretion; Colour of Right) but quote the parts that are the most highly flawed (Recommendations).

*a. Police Discretion:* Report of the Ipperwash Inquiry, Volume 2 states...

It does not mean that anyone is above the law or that police services should have different standards for Aboriginal peoples. Nor does it mean that the rule of law and public order are somehow subservient to Aboriginal interests.

Nor does it mean that the rule of law and public order are somehow subservient to Aboriginal interests.

Police discretion at Aboriginal occupations and protests does not mean that law-breakers are never charged. It simply means that lawbreakers should be charged when it is neither dangerous nor needlessly provocative to do so.

In the context of an Aboriginal occupation or protest, I believe this means police must be certain to pursue protesters or others alleged to have committed serious offences.

(see CANACE report: *Legalized MYTHS of Illegal Occupations*, p12) [7]

*b. Colour of Right:* Ministry of Attorney General legal opinion dated June 28/06 saying native protesters cannot claim immunity from crimes under the 'Colour of Right' provisions of the Criminal Code.

74. There is no jurisprudence, even as it has evolved to date [June 2006], that supports the view that the concept of "colour of right" entitled the Aazhoodena to act as they did in occupying Ipperwash Provincial Park in September, 1995.

(See CANACE report: *Legalized MYTHS of Illegal Occupations*, p4) [7]

*c. Violence Against Residents:* 100 recommendations, but not one specifically addresses issue of violence against residents. Why? Issue was never allowed to be studied:

- 139 witnesses, not one was a resident.
- Residents' organization denied standing for Part 1. Chronological history of Ipperwash from residents' POV submitted was never published.
- Inquiry lasted 3 years, residents received just 90 minutes w/Commissioner.
- Victim impact statement from residents not entered into evidence.

"Imagine if a future government invested \$20 Million and three years on an inquiry into the Caledonia crisis, but refused to allow a single resident to testify, and deliberately excluded every shred of evidence of native crimes against them. What if this inquiry was then used to hold natives blameless and justify a 'hands off' policy against land claim lawlessness in other Ontario towns? This is today's legacy of Premier McGuinty's Ipperwash Inquiry for Caledonia, Deseronto, Sharbot Lake, Brantford, and Hagersville."

*McGuinty's Ipperwash Cover-up* [9]

*The Human Costs of Illegal Occupations*, p42 [8]

In arriving at its 100 recommendations the Ipperwash Inquiry suppressed all evidence from non-native residents victimized by native crime during 3 separate land claims. Those recommendations therefore, should not be accepted at face value by communities looking for solutions to preventing violence during land claim disputes.

See [www.IpperwashPapers.ca](http://www.IpperwashPapers.ca) for documents released by CANACE founders at Queen's Park media conference, March 14/07.

- *d. 'Peacekeeping' vs. 'Law Enforcement':*

Ipperwash Inquiry, Fantino and McGuinty have all used the term, 'Peacekeeping' as if it were some kind of innocuous, higher form of policing when in fact the very use of the word is the surest sign that the rule of law is breaking down:

**'Law Enforcement'** is a role performed by police officers in a functioning, vibrant, healthy, First World democracy in order to preserve the Rule of Law and protect law-abiding citizens from criminals irrespective of their race, religion, national origin or grievance. It requires that citizens respect both the law and the willingness of police officers to enforce it justly.

**'Peacekeeping'** is a role performed mainly by soldiers trained to kill, and is used as a deterrent to prevent warring factions from killing one another and/or innocent civilians during civil war in failed states where the Rule of Law has broken down, or in the aftermath of international warfare to prevent further hostilities.

Letter to Premier Dalton McGuinty, May 08/07 by:  
Mark Vandermaas, Canadian Forces (ret), Canadian Contingent United Nations Emergency Force Middle East, 1978 and Merlyn Kinrade, Royal Canadian Navy (ret), HMCS Magnificent, United Nations Force, Port Said, Egypt, 1956

(see CANACE report: Legalized MYTHS of Illegal Occupations, p22) [7]

## 2. Myths re Duty to Consult: Supreme Court, *Haida Nation v. British Columbia*, 2004:

- 56. "...third parties are under no duty to consult or accommodate Aboriginal concerns..."
- [Intro, para 5] Third parties cannot be held liable for failing to discharge the Crown's duty to consult and accommodate. The honour of the Crown cannot be delegated, and the legal responsibility for consultation and accommodation rests with the Crown.
- [Intro, para 4] The Crown is not under a duty to reach an agreement; rather, the commitment is to a meaningful process of consultation in good faith.
- 42. As for Aboriginal claimants, they must not frustrate the Crown's reasonable good faith attempts, nor should they take unreasonable positions to thwart government from making decisions or acting in cases where, despite meaningful consultation, a agreement is not reached.
- 48. This process [of consultation] does not give Aboriginal groups a veto over what can be done with land pending final proof of the claim.

(see *Legalized MYTHS of Illegal Occupations*, p37) [7]

Native groups must take their concerns to the Ontario government, not third parties who do not have the duty or liability for consulting and accommodating.

Even though the claim against the Haldimand Tract has never been proven in court, and despite the Supreme Court's ruling, some business es have tried to convince Brantford to take on duties and liabilities that belong to the province. They suggest that municipal taxpayers' money be used to – in effect - pay native protesters not to commit crimes. Even if that were possible, who would you pay the money to, and how would you enforce any agreement not to commit further crimes?

Brantford developer Steve Charest will undertake additional water tests at his \$500 million industrial and commercial development on Oak Park Road after consulting Sun day, with a Six Nations group calling itself the **Haudenosaunee Men's Fire**.

He accused the **Haudenosaunee Development Institute** (HDI)...of not responding to developers. "The HDI is lacking in responding with developers or the protocols that will be used, he s aid. "My lawyer and HDI and Aaron Detler have been corresponding to arrange a meeting, to date there has been no meeting," he said. "I have sent email after email to HDI to come up with a protocol to deal with us, there is still no agreement, HDI and Detle r do not see what a protocol should be," charged Charest. Charest said he has been waiting since October 2007.

Turtle Island News, Aug 13/08, p2: *Brantford Developer meets with Haudenosaunee Men's Fire* [10]

Then there is a new group called the Haudenosau nee Men's Fire that has begun flexing muscle, and with no foundation. A group of up to 40 men met Sunday at the old council house with the same developer, Steve Charest, of the Haldimand Good Neighbours Coalition, and whether they realize it or not, they were caught in a consultation process that will come back to haunt Six Nations.

Turtle Island News, Aug 13/08, p4: Editorial - *Six Nations needs to work together* [10]

Both HDI and HMF have shut down Charest's development with illegal occupations, and both are at odds with one another and the elected council. What unaccountable new group will spring up tomorrow to try to extract money from developers? Ignoring the Supreme Court's wisdom is a recipe for disaster.

The McGuinty government - not Brantford - has the duty to consult. If McGuinty wants to give money to violent native groups for unproven claims, let him do it from the provincial treasury where he is accountable, and let him bear the legal, economic and political consequences.

Brantford should not use municipal taxpayers' money to take the McGuinty government off the hook with schemes designed to circumvent the Supreme Court and damage the rule of law by trying to bribe native protesters not to break the law. Brantford is responsible to the provi nce. Let Ontario identify the legal representative of Six Nations, and fulfill its duties to them, and allow. Brantford to fulfill its obligations to the province.

### **3. Big money being made from negotiations**

**Bill for land claim negotiations \$1.7M**  
Brantford Expositor, Sept 20/08

Six Nations have received close to \$1.7 million from Ottawa over the past two years to cover the costs of negotiating land claims, according to an audit.

**Land rights negotiations cost \$1.1 million**  
Turtle Island News, Sept 17/08

The Sept 17/08 edition of Turtle Island News listed honorariums paid to community members of Six Nations. They included two men charged w/assaulting Gary McHale at a protest at an illegal smokeshack on Dec 01/07; a third man who was charged w/Mischief for blocking Argyle Street the same day; another man facing a Mischief charge for illegal occupations; and a woman who has been involved in illegal occupations in Caledonia. She received over \$40,000.

These amounts do not include expenses incurred on the government's side.

**4. Suppression of non-native rights and views:** Despite the Criminal Code; Charter of Rights; Ontario Human Rights Code; Police Services Act; and the Ipperwash Inquiry report, the OPP and McGuinty government fundamentally believe that the rights of non-natives are of little importance during land claim disputes:

- OPP Sgt Michaud at Cayuga construction site blockade, May 12/08: Land Title deeds do NOT prove ownership for law enforcement purposes during land claim.

CANACE video, May 12/08: Sgt Michaud re land titles [11]

- Michael Bryant, Harvard Master of Law thesis, 1994:

“...there are good reasons for pause before lumping indigenous insurgents together with terrorists. This...is supported by international legal doctrine suggesting that indigeneous peoples carry some special international legal status importing special treatment.”

- Former Aboriginal Affairs Minister and Attorney General Michael Bryant re Mark Vandermaas' Human Rights complaint:

Aboriginal Affairs Minister Michael Bryant said the human rights complaint doesn't help resolve a complex situation dating back hundreds of years.

Toronto Star/Canadian Press, April 07/08: *Fantino asked to attend rights mediation*

- Fantino/OPP to OHRC: OK to arrest non-natives as alternative to protecting them from threats by native “extreme element.”

Mr. Vandermaas' actions in relation to the situation at Caledonia have made him a potential target of the more extreme element who do not share his views. It is the Respondent's position that any actions it has taken in relation to Mr. Vandermaas have been to preserve the peace and to protect Mr. Vandermaas and his supporters from harm.

The Respondents do not dispute that on December 16, 2006 and January 20, 2007 OPP officers objected to Mr. Vandermaas erecting or attempting to erect a Canadian flag across the street from the occupied area.

It was the Respondents' honestly held belief that the placement of the flag could provoke others to breach the peace and put Mr. Vandermaas and others in harms way.

OPP response to OHRC request that Commissioner Fantino attend mediation with Mark Vandermaas, July 22/08

People at the highest level of authority in Ontario believe that it is acceptable to subordinate non-native rights to the whims and threats of native extremists. Even one's status as a terrorist apparently depends on the race of the individual involved according to Mr. Bryant.

## C. RECONCILIATION: THE CANACE PATH

(see attached diagram, p10)

Appeasement = more crime, more injustice; more threats, more appeasement; more victims (native and non-native) and – ultimately –the collapse of the rule of law and democracy itself.

### *The CANACE Path*

Truth – Justice – Acknowledgement of Wrongs – Apology – Reconciliation & Healing

- Truth & Justice must prevail until reconciliation is achieved.

## D. SUGGESTIONS FOR STARTING DOWN THE PATH

1. **Decide:** reconciliation with native peoples can only be brought about in an environment of mutual respect for the rights of all human beings and for the rule of law. There is no place at the table for those who victimize innocent people.
2. **Understand:** Native extremists do not speak for all native people, and should not be treated as though they do:

Since the Brantford injunction and lawsuit was launched against the HDI, Aaron Detlor, Hazel Hill, Clive Garlow, Mary and Charlie Green and Ruby and Floyd Montour I have received numerous phone calls, people have stopped me on the street or approached me at events telling me that council had better not pay the legal fees for the above-mentioned people.

Let's not fool ourselves. Many people in the community do not support the HDI and do not support what Ruby and Floyd and their followers were doing. Every week it seems more and more people are withdrawing their support.

As a lawyer Detlor must have warned the CC, the HDI, Ruby and Floyd and their followers that there could be negative consequences to their actions. Surely these people didn't expect they could continue to target developers unfettered.

Turtle Island News, Aug 13/08, p4, Letter by Councillor Helen Miller: *Legal costs soaring; councillor [10]*

I have lived on Six Nations all of my life and the Caledonia protest has ignited feelings of anger and frustration towards those who are representing our community at the negotiations table. The Native Protesters on DCE fail to demonstrate any respect for anyone but their own selected few, and because of this do not deserve any respect from anyone else.

I can't believe the government is still tolerating the garbage occurring with the on-going land dispute on DCE. In fact, I think that the people of Caledonia and Haldimand County deserve acknowledgement for tolerating this outrageous and illegal terrorism in what was once such a beautiful and well -desired place to live.

Letter to Editor, A. Hill, Native resident of Ohsweken, May 28/07: *Is there any real reason for the terrorism occurring at DCE [12]*

3. **Create:** Haldimand/Brantford bi-community committee to hear and review relevant evidence, hold Ontario and federal governments accountable, and report to media:

- Founded on reality that communities affected by land claim lawlessness, political inaction and/or race-based policing take the lead in preserving and restoring the rule

of law, educating the public and holding both levels of government accountable for their failures.

- Create channels of communication with native and non-native groups advocating solutions that respect the law. Ensure politicians have timely access to vital evidence. Marginalize native extremists by refusing to listen to or meet with those who refuse to renounce the use of violence or crime.
- Lobby provincial and federal governments to take a stand against native extremism and insist that native communities take their grievances before the courts.
- Lobby McGuinty government to meaningfully address the concerns of non-native residents.
- Endorse Toby Barrett's 'Haldimand Proclamation for Peace, Order and Good Government' [13]
- Lobby to take the settlement of land claims out of the hands of politicians and hold native reserves accountable for their role in allowing or encouraging lawlessness during land claim disputes. (*Resolving Native Land Claims Responsibly*) [14]
- Continue to pursue justice against illegal occupations through court actions.
- Use information, media and courts to make land claim lawlessness as politically incorrect as drinking and driving.

## E. MORE INFORMATION

### CD ROM

1. Presentation Notes
2. PowerPoint presentation
3. CANACE founders' resume
4. CANACE editorial: *Lessons from Dr. King: Understanding the struggle against Race-Based Policing in Ontario*
5. OPP Detective John Murray cross-examination, Dec 14/07, Ontario Court of Justice transcript, p41, 46-47, 59
6. Haldimand Mayor Marie Trainer testimony, Dec 24/08, Ontario Court of Justice transcript, p14-16, 18
7. CANACE report: Legalized MYTHS of Illegal Occupations
8. CANACE report: *The Human Costs of Illegal Occupations*
9. CANACE article: *McGuinty's Ipperwash Cover-up: how the Inquiry's suppression of evidence put Ontario communities on a collision course with anarchy*
10. Turtle Island News, Aug 13/08 edition
  - p2: *Brantford Developer meets with Haudenosaunee Men's Fire*
  - p4: Editorial - *Six Nations needs to work together*
  - p4, Letter by Councillor Helen Miller: *Legal costs soaring; councillor*
11. CANACE video, May 12/08: OPP Sgt Michaud tells CANACE land title deeds do not prove ownership
12. Letter to Editor, A. Hill, Native resident of Ohsweken, May 28/07: *Is there any real reason for the terrorism occurring at DCE?*

13. Haldimand Proclamation for Peace, Order and Good Government, Toby Barrett MP P
14. CANACE position statement: *Resolving Native Land Claims Responsibly*
15. CANACE diagram – Reconciliation: the CANACE Path

**[www.CANACE.ca](http://www.CANACE.ca)**

**[www.IpperwashPapers.ca](http://www.IpperwashPapers.ca)**

**Merlyn Kinrade**

Caledonia Liaison

905.765.5131

[pat.merlyn@mountaincable.net](mailto:pat.merlyn@mountaincable.net)

**Mark Vandermaas**

Director of Research

519.457.0709

[info@canace.ca](mailto:info@canace.ca)

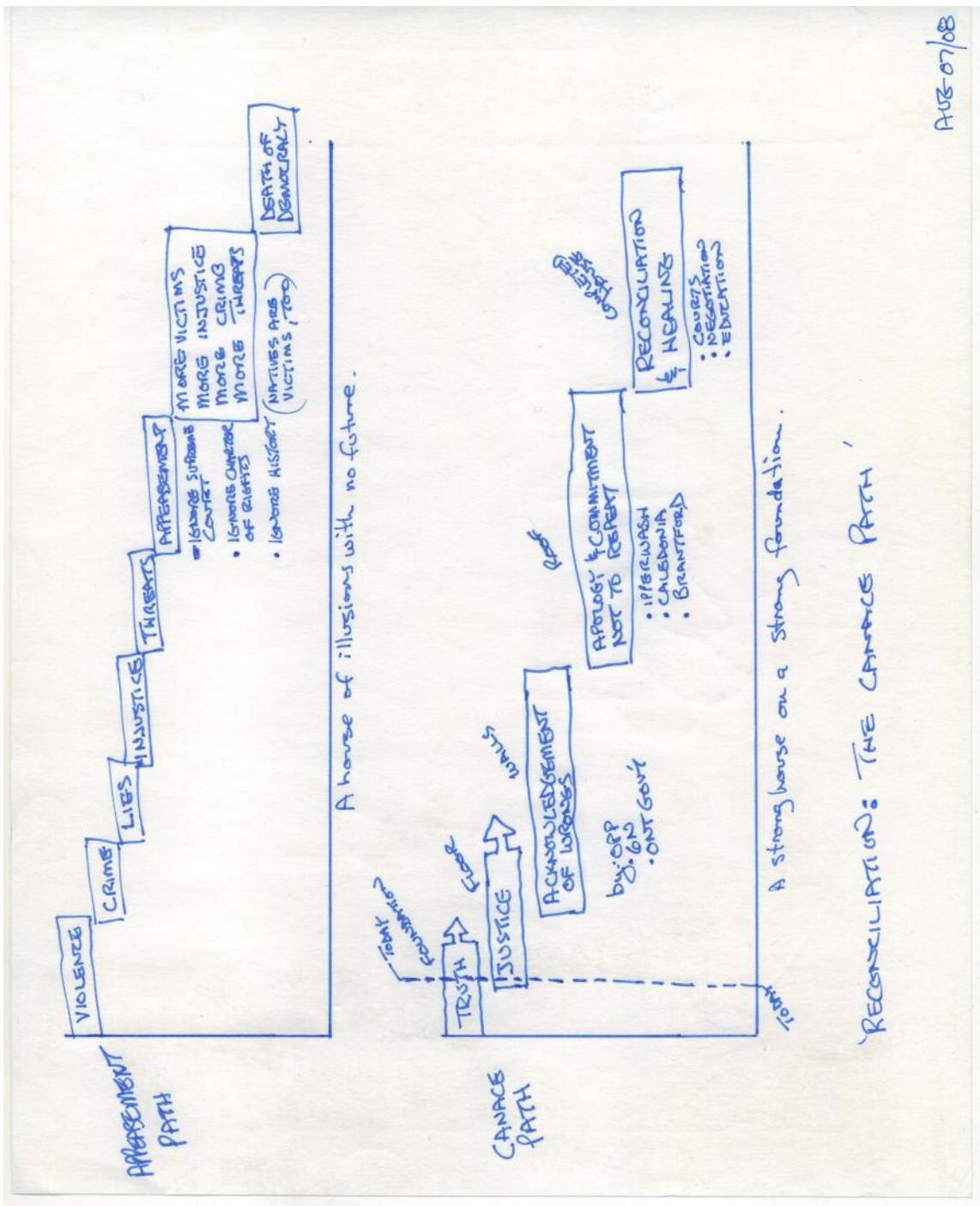
**Gary McHale**

Executive Director

905.692.6420

[info@caledoniawakeupcall.com](mailto:info@caledoniawakeupcall.com)

RECONCILIATION: THE CANACE PATH



AUG-07/08