

The Caledonia Act

- Issues -

1. Institutionalized Race-Based Policing: what tools can we use to ensure the province is required to uphold the rule of law & Charter of Rights and Freedoms if the federal government refuses to do so?
2. National security threats from radicals conducting economic terrorism on Canadian state at cost of \$4.1B (MPP Toby Barrett) in the Haldimand Tract.
3. Lack of governmental 'safety valves' – federally and provincially - for victims of systemic police refusal to enforce the law or to do so equally.
4. How to discourage senior police officers from issuing illegal, politically-motivated orders?
5. Refusal of province/police to uphold Land Titles System thereby denying protection of the law to families and their property.
6. Failure of Ipperwash Inquiry to provide recommendations for the protection of innocent victims of land claim lawlessness.
7. Use of illegal 'peacekeeping' mission on Canadian soil to justify race-based policing.
8. Vexatious land claims used by radicals create instant payouts for themselves from federal/provincial governments while opening door to legalized lawlessness.
9. Land claims have become a political process rather than a legal one. (i.e. ultimate non-Caledonia example = Nisga'a case re BC's deal to by-pass Constitution to create 3rd order of sovereign gov't not subject to Canadian law. [1])
10. Vital importance of private prosecution under Criminal Code of Canada as tool in holding gov't/police/protesters accountable. Preventing Crown Attorneys from stopping evidence of a crime from being presented to Court by a private prosecutor.

Legislative Recommendations

A. Police Services Act

1. 'Duties of a police officer' to include:
 - a. Higher duty to come to the aid of victims while crimes are being committed.
 - b. Duty not to violate section 15 of the Charter of Rights and Freedoms.
 - c. Duty to report, to the Ombudsman and civilian oversight agency, orders from a superior officer not to uphold the rule of law, or orders that violate section 15 of the Charter of Rights and Freedoms. ('Whistle-blower' protection for officers who report)
2. Police Services Boards, by resolution, may call public inquiry into police services in their jurisdiction.
3. Police officers not permitted to refuse to give a statement during police complaint investigations.
4. End the policy of police investigating police - Creation of transparent, independent civilian investigation service for police complaints.

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5. Any person, whether they are directly affected or not, who has some evidence supporting an allegation that a police force has enacted a policy, whether such policy is written or unwritten, of refusing to uphold the rule of law or refusing to do so in accordance with section 15 of the Charter of Rights and Freedoms may bring an application for an Order of Mandamus before the Superior Court of Justice to compel the Minister of Community Safety and Correctional Services to issue an order to require the force to obey the law.

B. Ombudsman Act

1. Expand Ombudsman's mandate to include policing issues.
2. Ombudsman to have authority to call public inquiry into police services in an affected jurisdiction.
3. Whistle blower protection for any officer who report violations of the Charter.

C. Crown Attorneys Act

1. Private prosecutors to be treated on par with the Crown in accordance with the recommendations of the 1986 Law Reform Commission of Canada Working Paper 52 entitled 'Private Prosecutions' (see p27-31) [2]
2. Crown to be required to seek permission from the Court in order to take over a prosecution in absence of consent from private prosecutor.
3. Crown to be prevented from intervening to stop a private prosecution before a charge has been issued by a judge, i.e. before evidence is presented by the private prosecutor.

D. Ministry of the Attorney General Act

1. Attorney General to be forbidden from serving concurrently in other cabinet posts, i.e. to also serve as Aboriginal Affairs minister.
2. Revise Section 5 (list of functions) to include the duty to uphold the value and independence of private prosecutions.

E. Ministry of the Solicitor General Act

1. Minister of Community Safety and Correctional Services to be forbidden from serving concurrently in other cabinet posts, i.e. to also serve as Aboriginal Affairs minister.
2. The Minister should be duty bound to ensure police services are not violating section 15 of the Charter of Rights and Freedoms in their policies and/or practices.

Policy Recommendations

Provincial jurisdiction

1. Call public inquiry into Caledonia to examine both the policies and actions of the OPP and Crown's office as to whether they violated section 15 of the Charter of Rights regarding equality of all people and whether they followed orders that permitted and/or encouraged criminal activities.
2. Apology to Caledonia/Haldimand County by OPP.

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3. Apology to Caledonia/Haldimand by Ontario Government.
4. Douglas Creek Estates (DCE) to be given to Haldimand County subject to exercise of right of first refusal by Henco. Under no circumstances is DCE to be given to Six Nations.
5. Provide funding for future monument on DCE, to be inscribed with above apologies.
6. Fund counselling for Caledonia victims.
7. Refuse any further negotiations with any group that is involved in violence or illegal occupations of private property.
8. Appoint a new OPP Commissioner with a mandate to end race-based policing within the OPP.
9. Scrap OPP 'Framework for Preparedness for Aboriginal Critical Incidents' or direct that it is to be amended to make it clear that it is to be applied to all citizens, native and non-native.
10. Create training program for all police officers regarding their duty to uphold the Charter of Rights and Freedoms and their duty to refuse illegal orders and report them.

Federal jurisdiction

11. Call on federal government to amend Criminal Code of Canada:
 - a. Private prosecutors to be treated on par with the Crown in accordance with the recommendations of the 1986 Law Reform Commission of Canada Working Paper 52 entitled '*Private Prosecutions*' (see p27-31). [2] Crown to be required to seek permission from the Court in order to take over a prosecution in absence of consent from private prosecutor.
 - b. Crown to be prevented from intervening to stop a private prosecution before a charge has been issued by a judge. (i.e. Crown should no longer be allowed to prevent evidence of crime from being presented to the Court)
 - c. Violation of Charter Rights to be a criminal offence. (as per USA model)
12. Call on federal government to create legislation allowing victims of illegal occupations, physical assaults or property damage to seek compensation directly through the federal government; compensation to be funded from money that would normally be transferred to the Native Reserve that caused the damage. Victims should be able to file liens against any land claim settlements or federal transfers.
13. Call on federal government to cease all funding to groups, organizations or publications such as Redwire Magazine that advocate racism, hate, violence or other criminal behaviour – with the exception of peaceful civil disobedience.

Dealing with land claims

14. Land Claims MUST be taken out of the hands of the politicians.
15. All claims must be ruled whether they are valid claims or not before negotiations begin.
 - a. A special judge or panel of judges should be assigned to handle land claims
 - b. Both sides should be allowed one year to produce evidence to the validity of the claim.

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- c. The Judge rules whether the land claim is valid.
 - d. Government and Native groups have 18 months to negotiate a settlement.
 - e. Throughout the whole process all settlement offers must be made public.
 - f. If no settlement the claim proceeds to binding arbitration.
 - g. Any illegal occupations or violence is deemed to be negotiating in bad faith and the claim goes immediately to binding arbitration.
16. The Federal/Provincial Government must refuse any further negotiations with any group that is involved in violence or illegal occupations of private property.

Citations & References

Citations

1. Cdn Constitution Foundation: *Chief Mountain v. Canada*
<http://www.canadianconstitutionfoundation.ca/article.php/51>
2. Law Reform Commission of Canada, 1986: Working Paper 52 – ‘*Private Prosecutions*’
(see p27-31 for recommendations)
<http://caledoniavictimsproject.files.wordpress.com/2010/04/1986-law-reform-commission-working-paper-privateprosecution.pdf>

References - Policy Issues

1. HelplessByBlatchford project: ‘*Caledonia: No More Nightmares*’
<http://helplessbyblatchford.wordpress.com/caledonia-no-more-nightmares/>
2. HelplessByBlatchford project: *post-Helpless Reading List*
<http://helplessbyblatchford.wordpress.com/post-helpless-reading-list/>

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