

**WITHOUT RESERVATION: THE CHATHAM-KENT COMMUNITY
NETWORK & CALDWELL FIRST NATION LAND DISPUTE**

A Thesis Submitted to the Committee on Graduate Studies
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ABSTRACT

WITHOUT RESERVATION: THE CHATHAM-KENT COMMUNITY NETWORK & CALDWELL FIRST NATION LAND DISPUTE¹

Johnathan Rose

In late 1998 an agreement-in-principle (AIP) was negotiated between the Caldwell First Nation and federal Department of Indian Affairs and Northern Development to settle a Specific Land Claim. In response to this AIP a non-Aboriginal community organization, the Chatham-Kent Community Network (CKCN), was established. The CKCN was a self-described group of “concerned citizens” with an initial expressed purpose of investigating and assessing the AIP as well as distributing information to the non-Aboriginal community. This thesis probes further into the reasons why the CKCN was established by analysing discourse in the public domain. I argue that the discourse and tactics of the CKCN suggested that, further to its expressed purpose, it was an organization designed to thwart the AIP and reinforce a colonial history that deprived the Caldwell First Nation of land for over 100 years.

¹ I owe the phrase “Without Reservation” to my friend and colleague David W. Hugill, whose quick wit was my last hope for an appealing title.

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Dedicated to the Mysterious Electrician and the Happy Traveller.

Table of Contents

Chapter 1: Introduction.....	1
Background.....	1
Problem and Purpose.....	2
Comparative Context.....	3
Reason for Study.....	11
Method and Data.....	13
Type of Study.....	17
Chapter 2: Historical Context.....	19
The Caldwell Chippewa People and Point Pelee.....	19
European Contact, 1790 Treaty, Indian Administration, and European Settlement.....	23
War and Promises.....	34
Agreement-in-Principle.....	37
Blenheim.....	42
Chapter 3: The CKCN.....	46
Beginnings.....	46
Initial Purpose.....	48
Concerned Citizens.....	51
DIAND: The Adversary.....	52
Caldwell First Nation: Not the Adversary.....	54
Purpose: Something More Ambitious?.....	55
Tactics.....	57
Arguments and Further Discourse.....	61
Racism and Community.....	77
Civic-Political Partnership?.....	82
Chapter 4: Conclusions and Further Discussion.....	92
Bibliography.....	98

Chapter 1: Introduction

Background

In December of 1998 tension was growing in the Municipality of Chatham-Kent, Ontario. Local politicians of various levels were addressing ongoing negotiations between the federal Department of Indian Affairs (DIAND) and the Caldwell First Nation. The focus of attention was the possibility of a new reserve being established near the former town of Blenheim (now South Kent Ward of the amalgamated municipality of Chatham-Kent). Before long, the local press was rolling out stories covering the details of the negotiations.

In October of 1998 an agreement-in-principle (AIP) was negotiated between the Caldwell First Nation and DIAND. The Caldwell First Nation was to receive \$23.4 million to purchase land on the open market over a 25-year period, then apply to have it turned into a reserve, pending a vote by the Caldwell First Nation membership and DIAND approval. Amidst questions and confusion from a contingent of the non-Aboriginal community, the Chatham-Kent Community Network (CKCN), a new organization, arose. The CKCN was a self-described group of “concerned citizens” that felt there was an information gap about the negotiations and the AIP, and that the non-Aboriginal community was being left out. The CKCN is the centre of this study.

The reasons why the CKCN was interested in the Caldwell First Nation land dispute were connected to the discourse and tactics of the organization, but they were also rooted in history. In 1790, a treaty was signed between various Indigenous leaders and the Crown. A large tract of land, which is described in greater detail in Chapter 2, was

ceded to the Crown and preparations for European settlement began. The Caldwell First Nation, a distinct nation who inhabited a portion of this ceded territory (present day Point Pelee and surrounding area), claimed to have not signed the Treaty of 1790 and not ceded the land. However, they were subsequently forced off their land in the 1850's and spent over a hundred years struggling to secure a land base. There were numerous attempts to reconcile the loss of land, but none came to fruition until the AIP in 1998.

The former town of Blenheim is situated within the land mass outlined in the 1790 treaty, and it is also home to the Caldwell First Nation head office. It is a rural area that has had a significant agricultural base for many years. The CKCN had members who were farmers and the organization's discourse routinely supported the maintenance of farmland, and criticized a potential reserve being established in the area. Therefore, two histories collided: the history of the Caldwell First Nation which had been forced off its traditional lands and was struggling to regain a land base, and the history of European agricultural land use, defended by the CKCN. In one sense, the discrepancy was about competing histories of land use and subsistence, as the CKCN was concerned about how the farmland would change as a result of the Caldwell First Nation purchasing local land and using it for a potential reserve.

Problem and Purpose

The initial expressed purpose of the CKCN was to investigate and assess the AIP between DIAND and the Caldwell First Nation, as well as to distribute information to the non-Aboriginal community. However, the discourse and tactics of members of the CKCN

suggested that it was an organization founded on colonial principles and designed to thwart the Caldwell First Nation AIP. It was connected to broader elements of political power and reinforced a history that deprived the Caldwell First Nation of land for over a hundred years.

The purpose of this study is to examine the motives for the establishment of the CKCN. The question of “why” is key to this analysis. Why did the CKCN develop and what was its purpose? The discourse CKCN members used to describe the organization and justify their investigation of the Caldwell First Nation land claim, and the tactics used to carry out the CKCN agenda, are central to answering this question. On the surface the question is answered by the CKCN itself in its own press releases and the local media. However, when probing further into the question, it becomes clear that the motives were deeper than the surface discourse. In asking the question of why the organization was established, the position of the CKCN within the community becomes more complex.

Comparative Context

The body of literature dealing with non-Aboriginal civic organizations that direct their critical energies toward First Nation land disputes is very limited. The literature that exists largely focuses on the First Nations or the government processes specifically. A study of an organization like the CKCN is important to fill this gap in the literature, and for a broader critical observation of the practical, contemporary manifestations of a society rooted in colonial history.

Chapter 2 of this project outlines the historical context of the Caldwell First Nation and the Blenheim area. It details the many difficulties that the Caldwell First Nation endured through history. It also includes information about the settlement of the Blenheim area and the importance of farmland. The CKCN's opposition to the most recent attempt for the Caldwell First Nation to secure a land base is put into context through the examination of this history.

J.R. Miller writes that historically, Europeans felt that "the discovery of intensive use of agriculture" gave them a sense of superiority over Indigenous peoples occupying and using the land (Miller 257). This historical perspective is useful to understand the contemporary disagreements about how groups perceive proper use of the land. For this project, the perceptions of settler farmland and agriculture are contrasted with First Nation reserves as racialized space.

Miller also states the obvious when he writes that when the motives of Aboriginal and non-Aboriginal communities are "antagonistic or competitive," the relationship will be unhappy. He identifies a contemporary "long third phase" of historical relations where "newcomers regarded the natives not as commercial partners or military allies, but as obstacles to new forms of economic development" (Miller 275-276). The question of what is "appropriate" economic development is significant to this project. Assumptions about proper land-use are part of a "racial story" that comes from "national mythologies of white settler societies" producing "European settlers as the bearers of civilization" (Razack 2-3). Again, this is part of a story where land and space are racialized, and changes to the land are questioned when they do not fit the settlers' perception of proper civilization.

Some important research dealing with Aboriginal and non-Aboriginal relations has been done by Zoltán Grossman. Although he is an American researcher, writing on “American” experiences, his work has much to offer. The focus of his work has been geared toward why “interethnic” alliances are formed and how they can have a positive impact on creating future alliances that often seem unlikely (Grossman, 2001b).

Grossman suggests that alliances between Aboriginal and non-Aboriginal groups often emerge from a sense of “common place” and ties to “geographical landscape,” as well as a sense of “common purpose” and “common understanding.” (Grossman, 2001b) The interests of business or the state in exploiting natural resources have allowed the often opposing groups of Aboriginal and non-Aboriginal peoples to find common ground and join together for a common purpose, thereby creating greater social and cultural awareness between them.

One example of this is the Ho-Chunk Nation of southern Minnesota which came together with non-Aboriginal residents of the area in opposition to plans to expand a bombing range and jet flight paths. This alliance was due to shared bitter histories that the two groups had with the federal government. The push against the government was effective in many ways. When the Ho-Chunk people eventually acquired land out of the struggle, a board of tribal, state, and local representatives eventually managed some of the land parcels together (Grossman, 2002).

In a similar example in Ontario, the Ardoch Algonquin First Nation’s contemporary struggle to stop a private uranium mining company from encroaching on their land was boosted by an alliance of settlers who formed the Community Coalition Against the Mining of Uranium (CCAMU). The members of the CCAMU were involved

in educating the public and recognized the mutual responsibilities of the First Nation and settlers to protect the land (Sherman 2008).

The examples of Ho-Chunk Nation and Ardoch Algonquin First Nation are important because they highlight what brings some Aboriginal and non-Aboriginal peoples together. This actually makes the gaps between the CKCN and Caldwell First Nation clearer. Although a sense of common place is often what brings groups together, this project demonstrates what keeps groups apart, such as differing ideas of environment, economy and land use.

In his study of interactions between an Aboriginal and non-Aboriginal community in the Canadian plains, Niels Winther Braroe suggested that “most Indians and Whites are unaware of much that they communicate to one another about themselves, and that this ignorance has profound effects on perpetuating the structural community” (Braroe 180). Also, Rick J. Ponting and Roger Gibbins suggest that “the vast majority of Canadians have very little conception of the geographical extent of Indian land claims” (Ponting and Gibbins 80). Again, this highlights the phenomena that keep Aboriginal and non-Aboriginal communities apart. A lack of information and communication is detrimental to creating spaces where Aboriginal and non-Aboriginal people can come together. In this project, communication between the communities was not consistent, and the central mode of communication for the CKCN with the broader non-Aboriginal community was the local media. This disconnection complicated mutual understanding of each of the groups’ positions.

The CKCN was very prevalent in local media and a type of sensationalizing of opposition to the land dispute created a sense that support did not exist for the Caldwell

First Nation. Although there was little organized support that received local media coverage, the Caldwell First Nation received various support from other Aboriginal communities across the country and from the United States, as well as from social justice organizations. For example, the Mennonite Central Committee, a relief and peace organization, sent members to help the Caldwell First Nation (Rose, 2007a).

The non-Aboriginal support that is organized in response to Aboriginal issues is extremely important, particularly when there is also organized resistance from non-Aboriginal communities as well. Rick Wallace, Marilyn Struthers and Rick Bauman write about the support that was organized for the Chippewas of Nawash. The Mennonite Central Committee was also an important ally in the struggle to defend Nawash fishing rights in response to opposition from white anglers. The Mennonite Central Committee organized a *Citizens Inquiry* and wanted to act as a “3rd party team” and put forth recommendations to resolve fishing conflicts (Wallace et al. 2008). Also, there was a local organization called the Neighbours of Nawash that was increasing support for the Chippewas of Nawash by organizing local public forums and working to “counter the effects of conflictual behaviour” around the issues (Wallace et al. 2008).

Wallace, Struthers and Bauman argue that the Neighbours of Nawash were successful at “engaging factions within a community” where the Mennonite Central Committee’s final *Citizens Report* was not (Wallace et al. 2008). The strength of the Neighbours of Nawash was due to the “intimate awareness of community space,” “credibility and influence of community members,” and “local knowledge and organizing capacity” toward bringing the non-Aboriginal and Nawash communities together (Wallace et al. 2008). The success of the Neighbours of Nawash puts this project in an

interesting perspective. The CKCN was a local organization with a strong awareness of the community, possessing local knowledge, and an ability to quickly communicate and organize. It becomes clear that any “successes” that the CKCN had were related to its roots in the community. Whether opposing or supporting First Nation land disputes, the local pressure group can be a powerful force.

The most organized support in the Blenheim area was an elaborate website started by a criminology student and a teacher/author that worked in cooperation with the Caldwell First Nation, and criticized the CKCN and local political atmosphere.¹ Interestingly, this website had virtually no local media coverage, nor did any other support for the Caldwell First Nation. The authors of the website were not locals, and this surely played a role in why the support was not as visible as the CKCN.

Comparatively, the question of why non-Aboriginal support for First Nations is not as visible as the opposition goes even further. In the case of the Chippewas of Nawash, a local church minister “was ejected from his ministry for actively supporting” the First Nation (Wallace et al. 2008). Also, in the case of the current Caledonia land development dispute between non-Aboriginal residents of Caledonia and Six Nations activists, non-Aboriginal people supporting Six Nations were terrorized and even assaulted by white opposition (Keefer 2008). The fear of engaging in public support for First Nation land disputes seems to be a common occurrence in small communities where struggles between Aboriginal rights are central.

The Royal Commission on Aboriginal Peoples (RCAP) states the significance of raising public awareness and creating stronger understandings between Aboriginal and

¹ Available online at <http://www.geocities.com/Athens/Rhodes/6024/> This website provides history, petitions and letters to government officials, and criticism of local politicians and the CKCN.

non-Aboriginal communities through the media, conferences and workshops (RCAP: V.5, Chapter 4). Interestingly, RCAP identifies municipalities as important “stakeholder groups” who can bridge the gap between communities because of capacities for community organizing and close contact with people (RCAP: V.5, Chapter 4).

The practical reality of rural communities is that those who are active community members are often also council members or political officials. It is a microcosmic environment. This project outlines an alliance of discourse between municipal officials and non-Aboriginal community members, which puts the municipality’s capacity for organization and education into question.

In the case of the Chippewa of Nawash, “local sportsfishers allied with both the Ontario Federation of Anglers and Hunters (OFAH) and the Ontario Ministry of Natural Resources (OMNR)” engaged in “acts of community violence, and opposition” to Nawash fishing rights (Wallace et al. 2008). Also, the OFAH was very “politically influential” because its membership “included local professionals, politicians and local elite” (Wallace et al. 2008). Furthermore, the local MPP was involved in a protest with OFAH members in opposition to Nawash fishing rights (Wallace et al. 2008). These connections between civic and political entities relates to the analysis in Chapter 3, where I compare some of the discourse and tactics of local politicians and CKCN members and find important similarities. It puts the scope and size of opposition to some First Nation land disputes into striking perspective.

RCAP also identifies “stakeholders” that can create obstacles to Aboriginal peoples exercising their rights, and that cultural understanding and improved relations should be facilitated by groups representing and serving both Aboriginal and non-

Aboriginal peoples (RCAP: V.5, Chapter 4). As a department of the Federal Government, DIAND fits the RCAP description very well as an organization that represents both Aboriginal and non-Aboriginal communities. This highlights a very important point about who can facilitate discussion and improve relations. When DIAND is conveniently absent during most of the tense moments between a non-Aboriginal community and First Nation, it begs the question of who can (or ought to) facilitate or mediate discussion.

It is important to note that the CKCN was not the only group organized against the Caldwell First Nation land claim. However, it was the largest. There was another, smaller group called Canada First that broke from the CKCN and was circulating petitions to try to rally against the Caldwell First Nation claim (Cornell April 8, 1999). This group received less media attention than the CKCN, and had some overtly divisive and dangerous discourse. Militant or extreme factions within anti-First Nation movements are not uncommon. For example, the differences between the Caledonia Citizens Alliance (CCA) and Caledonia Wake-Up Call are contrasted in Tom Keefer's work. He demonstrates that the CCA was an elite lobby group while Caledonia Wake-Up Call was a more radical contingent that even attracted neo-Nazis to its protests (Keefer 2008). This project seeks to demonstrate that those factions, which seem more elite or willing to work within the system, also use discourse or pursue action that is harmful to both First Nations and non-Aboriginal communities.

Reason for Study

In his discussion of what inspired him to begin researching relationships between Aboriginal and non-Aboriginal peoples, Zoltán Grossman writes:

In Minnesota years ago, I covered a farmers' environmental rally for a high school newspaper. The farmers were protesting against a high-voltage powerline that crossed their lands, and had been joined for the first time by Native Americans, who opposed the mining of coal on Lakota treaty lands to generate the electricity. Next to the rally site, I saw two red pickup trucks parked side-by-side. One pickup has the bumpersticker "The West Wasn't Won with a Registered Gun." The other more beat-up pickup sported a bumpersticker that said: "Custer Had it Coming." At the end of the rally, the Native American and the white farmer drove off in their trucks with these different messages attached. (Grossman, 2000).

I can relate specifically to Grossman's intrigue as a young high school student. While living in Blenheim at the time the Caldwell First Nation claim was in process, the discourses that described Aboriginal peoples in the community in which I grew up created a dichotomy between "Indians" and "whites." It constructed a dual imagery that is similar to Grossman's bumper stickers. It was a particular time and place where debates about the relationships between Aboriginal and non-Aboriginal people were often passionate and often problematic.

However, unlike Grossman I cannot pin it down to one single event or moment in time that sparked my interest. I can relate my interest in this project to a series of words and actions, spoken and performed by white people (directed at Aboriginal communities and peoples), that were steeped in ignorance and racism, and were common in

environments of which I was part. In Grossman's research, the non-Aboriginal and Aboriginal communities came together for common causes despite their historical differences and perspectives. Alternately, what intrigued me as a young person was that, through the problematic discourse to which I was privy, I could not understand why some non-Aboriginal community members could be so hostile toward Aboriginal people and issues. This question of "why" is the real impetus for this project.

Tom Keefer, in his article about the Six Nations land dispute at Caledonia, argues that land claim struggles are not just struggles for First Nation communities, but are also "non-Native" problems. He continues to say that resolutions to "historic injustices imposed upon Indigenous people will require active struggle against colonialism on the part of non-Native people" (Keefer 2008). Further, David McLaren, former Communications Director for the Chippwas of Nawash, remarked similarly that it "was the white people's job to take care of their own racism"(Wallace et al. 2008). As a non-Aboriginal, he argued that it was his job to "deal with the backlash" against Aboriginal communities (Wallace et al. 2008). This is the approach I have taken with this project. As a white man who spent his first 19 years growing up in Blenheim, I feel it is my responsibility as a critical observer of the non-Aboriginal community to investigate white opposition to the Caldwell First Nation land claim. It is my responsibility to add something to the larger non-Aboriginal voice that is acting against colonialism.

I hope that the communities involved in this research will benefit from the analysis in their ongoing struggles to understand one another. In looking critically at the motives for the establishment of the CKCN, I hope to illuminate the problems of how non-Aboriginal organizations engage with First Nation land disputes, and therefore open

up possibilities for how groups can come closer to mutual understanding in important, delicate and contemporary social relations.

Method and Data

My initial plans for this project were to interview members of the CKCN and use these interviews as the primary data. However, there were some challenges to this approach. Two members of the organization did not want to be involved in the study because of pending legal action² and the tense history of the land dispute. Also, it was very difficult to locate and contact people involved with CKCN because the organization was, by that time, essentially dissolved, and some members did not respond to my queries. Therefore, the bulk of my data switched from interviews to information in the public domain, largely local newspapers and public releases.

The local newspapers are especially important to this study. The weekly *Blenheim News Tribune* was the central newspaper in the Blenheim community, located next to the CKCN head office, and was a central space for CKCN members to outline the motives of the organization and voice concerns related to the Caldwell First Nation land dispute. In fact, the *Blenheim News Tribune* was the centre for the recruitment of members to the CKCN. Also, the *Chatham Daily News*, being the largest and most widely distributed daily newspaper in the Municipality of Chatham-Kent, was equally important. It provided the most extensive coverage of the land dispute as a whole with much emphasis on the CKCN and the perspectives of local politicians. These two sources are the centre of the

² There was a request for a Judicial Review filed in Federal Court in January 2000 by a member of the CKCN against the Department of Indian Affairs' decision to come to an Agreement-in-Principle with the Caldwell First Nation. This Judicial Review application was still active when I was seeking interview participants. It was discontinued in June, 2007.

document analysis. Newspapers from larger centres were also important for further reference, such as the *London Free Press*, the *Toronto Star*, as well as the CBC and the *Turtle Island News Network*.

The media were the central modes of communication in this land dispute. They were the centre of communication to the non-Aboriginal community at large, and were also important sources of information between the CKCN and the Caldwell First Nation. Although there were a couple of occasions where “open” discussion occurred (a public meeting in December, 1998 and a meeting with the Minister of the Department of Indian Affairs), the CKCN largely talked through the media. The CKCN website and the discourse in the media were the terrain of recruitment and conversation with the public at large. Without the opportunity to conduct interviews, the media were still an extremely fruitful place to acquire data.

The influence that the local media had on shaping the issues related to the Caldwell First Nation land dispute was incredibly important. Therefore, who controlled the local media and who got to shape those images and ideas were also key. Unlike the local media, it is important that this study not construct an image that describes the Caldwell First Nation as having had no support. However, it is also important to demonstrate that the opposition was strong and prevalent in the media and in the community at large. The CKCN was the largest organization at the centre of this opposition and therefore it is at the centre of this study.

In the body of the text, I do not name individuals unless they hold a specific office that would reveal their identities (e.g. local Member of Parliament, Members of Provincial Parliament, or the former Mayor of Chatham-Kent). This study is not about the

individuals; it is about the CKCN as a whole, and what it represents in the non-Aboriginal community. I wanted broader themes of racism, relationships and assumptions to prevail as these are the things that need to be analysed, not the individuals, in order to make change.

The actual data I use from the media consist largely of direct quotes from CKCN members and local political officials. The analysis by the journalists is less important than what CKCN members were actually saying. This is not an analysis of the media's coverage of the Caldwell First Nation land dispute, but rather an analysis of the CKCN's discourse in the local media.

The time-frame for my analysis begins in December, 1998 and ends in August, 2003. The CKCN was established in late 1998, with the media first reporting on the organization in December. CKCN action started to become less visible through 2001-2003. However, when the AIP was voted down by the Caldwell First Nation in August of 2003 the CKCN's visibility in the media became almost non-existent.

The other documents I examined include CKCN press releases and historical documents from the organization's former website where there were contributions from CKCN members, local historians, and the local Member of Parliament. I also referred to Caldwell First Nation documents dealing with history and the CKCN. Department of Indian and Northern Affairs Canada public documents were used to understand the history of relations between the Caldwell people and Indian Affairs, and to explain the particulars of the agreement-in-principle.

I conducted two interviews with two different people. These participants were either members of the Caldwell First Nation or had direct contact with the CKCN. The

interviews were important to get data outside the CKCN members' discourse in the media and to get a more critical perspective of the organization. As well, these data were used to formulate the historical context of the Caldwell First Nation. The community in which the interviews took place is very small. I promised anonymity to all interview participants, while acknowledging the difficulties of maintaining it in such a small community.

There is another unique and important element related to the data. There was a disagreement in the membership of the Caldwell First Nation. Comments in the media, as well as public Federal Court files, clearly demonstrate that some members were critical of the AIP and the administration of the First Nation at the time the Agreement was put in place, all while the CKCN was actively criticizing the land dispute. This information is important because my interview data are not from a representative sample of the members of the Caldwell First Nation. I did not endeavour to seek out Caldwell First Nation members who both supported and opposed the AIP. This project is a critical analysis of the CKCN, not the AIP specifically or the politics of the Caldwell First Nation, so those who did participate in the interviews are very important to the characterization of the CKCN in the specific time-frame on which my analysis focuses. These criticisms of the land claim process that Caldwell First Nation members reported to the media from December, 1998 to August, 2003 were taken into consideration only in respect to the scope of this study.

Type of Study

This analysis is a qualitative study with results “not arrived at by means of statistical procedures or other means of quantification”; rather, it is a project of “research about persons’ lives, stories, behaviour, but also about organizational functioning [. . .] or interactional relationships.” (Strauss and Corbin, 1990: 17) The use of both documentation and interviews falls neatly under the qualitative category. I am not looking to come to some universalizing end, nor am I concerned with providing a positivist sample and conclusion. I am merely glimpsing into this case and attempting to criticize and understand.

Not only is this a qualitative study, but it is specifically a case study. It is a case because I am concentrating specifically on the CKCN and its influence and functioning in relation to a particular land dispute. Robert E. Stake outlines two types of case studies, both of which I think are appropriate to this study. The *Intrinsic Case Study* is embarked on to understand the particulars of a specific case because it demonstrates a specific problem or attribute. In this definition, the researcher is interested in the case itself over anything else. The *Instrumental Case Study* is one where a case is thoroughly examined, but the particulars of the case are more geared toward a broader understanding of an “external interest.” (Stake, 2005: 445)

I see this study as both Intrinsic and Instrumental in the way Stake outlines these terms. The case itself is specific, and the findings of this analysis will undoubtedly be important to the case in and of itself. However, just as important is the ability to link the

specifics of this case with the broader relationships between Aboriginal and non-Aboriginal communities.

Lastly is the issue of insider research. As previously mentioned, I am originally from the non-Aboriginal community of Blenheim, and I spent 19 years growing up there with a close connection to the people, land and culture. I note this in my discussion of methodology because in my pursuit of data, my insider knowledge was at its most useful. Thomas Dunk argues “one’s greater familiarity with the “home” culture makes it easier to recognize subtle but important differences” and enables “a greater understanding in terms that are meaningful to the members of the culture under study.” (Dunk, 1994. 13) I agree with Dunk and believe that my collection of data was enhanced by my knowledge of the culture and subtleties of the non-Aboriginal community. Also, if I were not from Blenheim, I would not have undertaken this study. The personal and historical connection to Blenheim is at the very deepest root of why I have created this project. I am, however, an outside researcher in relation to the Caldwell First Nation. This puts me in an important position as a white settler criticizing an element of white, settler society from the inside.

However, Dunk also notes that many opponents of insider research argue that there is too much familiarity in a researcher’s home culture to catch many important subtleties. (Dunk, 1994. 12) I would argue that being aware of the nuances of home culture made me keener to the underlying narratives and socio-economic realities, and ultimately benefited the research process. Also, having grown up in Blenheim for 19 years, I have been personally critically engaged in this case study for a while and those years of experience are important to the explanation of this analysis

Chapter 2: Historical Context

The history of the Caldwell First Nation is essential to this project. If this project were written without this history, it would be significantly different, and ultimately incomplete. The many difficulties that the Caldwell Chippewa people endured through history must be detailed before an analysis of the CKCN can occur. The CKCN's opposition to the most recent attempt by the Caldwell First Nation to secure a land base must be put into context through outlining the historical struggles, and engaging with some of the literature that helps put the history of Canadian colonialism into context as well.

The Caldwell Chippewa People and Point Pelee

Consistent with the Specific Claims policy, the Departments of Indian Affairs and Justice reviewed historical documents to determine the validity of the Caldwell First Nation land claim. These documents are not public and therefore, it is difficult to find the primary sources that were used to explain the Caldwell First Nation history.

Subsequently, publications from the Department of Indian Affairs are used widely in this historical context, but not without critical observations.

Darlene Johnston, law professor at the University of Toronto and specialist in Great Lakes Aboriginal history, states in her testimony setting the historical context for the Ipperwash Commission of Inquiry that "Anishnaabeg history does not begin with the first contact with Europeans. That is where the European-authored record of the Great

Lakes region begins.”(Johnston 2007: 4). Since the ultimate focus of this project deals with the action of the non-Aboriginal CKCN and its response to the Caldwell First Nation land dispute, the “European-authored record of the Great Lakes” is important as material that documents the colonial relationship between peoples.

The members of the Caldwell First Nation are descendants of the Chippewa people of Point Pelee. The terminology is complex when attempting to understand a First Nation’s ancestral, linguistic and cultural history. Most accounts agree that the land around Lake Huron is generally regarded as traditional territory for the peoples who identify as Ojibwa, Anishnaabeg, or Chippewa. The complexity of understanding who these people are is often linked to the names which colonists gave to different groups of Aboriginal peoples, and the names they call themselves. Some people identify as Ojibwa (or Ojibwe), others as Anishnaabeg (or Anishnabai), and others Chippewa (sometimes called Ochipwe). What links these groups is linguistic similarities. Those Aboriginal peoples that originally inhabited the area around Lake Huron are generally referred to as being part of the Algonkian linguistic group.

The difficulty with these broad historical and linguistic categories is their application to more contemporary First Nations. In the case of the Caldwell First Nation, specific historical events have ultimately led to members living all over southwestern Ontario and into the United States since the mid 1800’s, which creates more facets to the way the people identify. For the purposes of explaining the historical movement of Aboriginal peoples to southwestern Ontario, the terms Anishnaabeg and Ojibwa will be used. However, any discussion related specifically to the Caldwell people will use the

word Chippewa, because that is the name identified in official Caldwell First Nation documents.

The Ojibwa people originally inhabited “the east shore of Georgian Bay, west along the north shore of Lake Huron, and a short distance along the northeast shore of Lake Superior” (Sturtevant 1978: 760) near the current area of Sault Ste. Marie. There was an eventual expansion to “the southeast into the formerly Iroquoian lands of southern Ontario,” with those Ojibwa of southern Ontario generally known as “Chippewa” (McMillan 1988: 93-94). “Chippewa” is a term “that British colonial officials began using in the late 1700’s” and the long history of Chippewa people extends well beyond the colonial identification of particular Anishnaabeg groups (Johnston 2007: 3).

The land of southwestern Ontario is said to be first inhabited by the Huron and Neutral people. With “[s]mall pox epidemics” and “Haudenosaunee aggression,” the Huron and Neutral populations eventually depleted south of Lake Huron, and the attacks by Haudenosaunee “destroyed their villages and corn fields” (Johnston 2007: 9). The Haudenosaunee (or Iroquois as termed by the French) then encountered the Anishnaabeg people who were moving from the north. There are accounts that the Anishnaabeg had “battles on Lake Huron and Georgian Bay” and near the “River Thames” with Haudenosaunee people (Johnston 2007: 9-10). Some argue that Ojibwa (Anishnaabeg) people drove the Iroquois away militarily (Ferris 1989: 19). However, a peace truce was negotiated in August of 1701 in Montreal between the Haudenosaunee and Anishnaabeg where the two peoples “promised to live together in peace” (Johnston 2007: 10).

Some of the first settlements of Ojibwa people are said to have occurred “on or near Walpole Island, and eventually expanded along the major drainages of southwestern

Ontario,” with five major territorial groups developing: St. Clair waterway, middle and upper Sydenham River, interior of Thames River drainage and Detroit river near Point Pelee (Ferris 1989: iv). Point Pelee is of utmost importance to the history of the Caldwell First Nation. Some accounts have the use of Point Pelee by Ojibwa people extending to the 1730’s (Ferris 1989: 59). Although others argue that settlement around Detroit “began almost immediately after the Great Peace was concluded” in 1701 (Johnston 2007: 12), with Chippewa and Mississauga people forming communities in 1703 (Kinietz 1965: 319). This places settlement in the area by Chippewa (Ojibwa) people around the early to mid 1700’s with “several well-established villages in the vicinity of Detroit” by 1718 (Johnston 2007: 12).

It is difficult to discern “who is who” in this movement into what is now southwestern Ontario. Johnston notes that “[t]he task of connecting people to a specific place in a given time period is especially daunting if the recorded names of the peoples and places keep changing” because of “[t]he introduction and recording of different names bestowed by outsiders” which creates confusion (Johnston 2007: 2).

The second important part of this history, apart from the names and movement of the Chippewa people, is the land. Point Pelee (and Pelee Island) is located just over 50 kilometres southeast of Windsor, Ontario. The peninsula is home to Carolinian forests and is known for the migrating butterflies in the fall season. What is not so well known, to many people inside and outside the region, is the Indigenous history of the now national park.

Pre-colonial inhabitants of Point Pelee had occupied the region for many years. The largest archaeological site found at Point Pelee is thought to have been occupied

between AD 700 and 900, and it demonstrates the most concentrated use by inhabitants during the pre-colonial period. However, settlements from AD 600 have been found in the marsh areas of the land (Keenlyside 151), which suggests a possible subsistence reliance of original inhabitants on aquatic plants and animals, such as Muskrat, fish and turtles (Pelee 2007). The historical analysis above would indicate that the earliest inhabitants may have been the Huron or Neutral people, with the Caldwell Chippewa people coming later and making Point Pelee their home.

European Contact, 1790 Treaty, Indian Administration, and European Settlement

By the time European colonizers arrived, the Chippewa people of Point Pelee were permanent occupants with heavy reliance on agriculture and hunting. French Roman Catholic priests travelled from Quebec to Point Pelee in 1669, and other Jesuits and travellers from Quebec wrote accounts of Point Pelee from 1721 to 1768 (Battin and Nelson 44). Some of the early written accounts by Europeans of the inhabitants of the Pelee region came from British land surveyors and travellers in the late 1700's, who wrote that a number of Chippewa Aboriginal families lived on the land and farmed corn and hunted and fished. (Pelee 2007).

George Ironside Sr. and his son (the eventual local Indian Superintendent, George Ironside Jr.) served in the British Indian Department at Amherstberg from 1795 to 1845. Superintendent Ironside indicated that "Chippewas had occupied Point Pelee since about 1765 to 1845" (INAC 2006b). This account is at least 30 years later than the histories

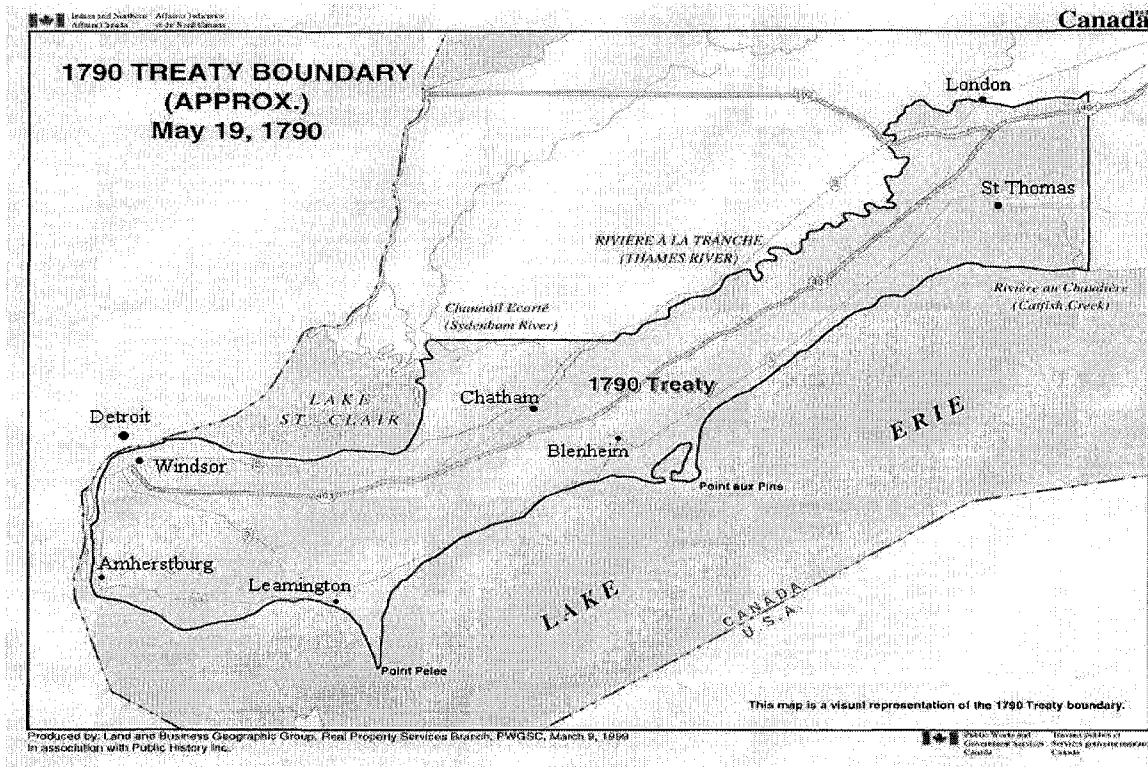
mentioned above, but Ironside came to Amherstberg later and may not have known more precise years of the Caldwell inhabitants' history.

Point Pelee Nation Park media characterizes the communication between the local Indigenous people and early Europeans at Pelee as being quite cooperative, noting examples of the sharing of portage routes through the marshes so European travellers could bypass the strong currents at the tip of the Pelee peninsula (Pelee 2007). Although this relationship between the Europeans and Caldwell Chippewa people is important, what this media fails to bring to the attention of the public is the important treaty relationship the colonial British government had with Indigenous people in the area.

On May 19th, 1790, Chippewa, Ottawa, Potawatomi and Huron Chiefs met at Detroit to discuss the Crown's interest in purchasing a large tract of land running along the Thames River (Hamil 1951: 3). Deputy Indian Agent Alexander McKee was the key negotiator on behalf of the Crown. Treaty #2 (or the 'McKee Purchase') was finally signed on May 21st, 1790. The Department of Indian Affairs argues that "[a]ccording to the text of the treaty the tract included Point Pelee. A one-time distribution of £1200 worth of goods was made at the time the treaty was signed." (Treaty No. 2, *INAC* 2006b).

The land covered under Treaty #2 of 1790 ran along Lake Erie, encompassing the current communities of Windsor and Amherstberg at the southwest tip of Ontario, ranging to near Wallaceburg in the north, and just further east of London and St. Thomas in the northeast (refer to *Appendix A* below). With Point Pelee included in this treaty, the European colonial authorities clearly thought that the Caldwell Chippewa land had been ceded.

Appendix A: Treaty #2 of 1790, South Western Ontario



3

Treaty #2 of 1790 was characteristic of treaties that were signed in the late 1700's and early 1800's. Prior to the Proclamation of 1763, treaties were largely concerned with "peace and friendship." However, after 1763 treaties were focused "primarily on land" (Dickason 1997: 162). Aboriginal populations surrendered their land rights "in exchange for reserves, small cash payments," (McMillan, 1988) or in this case a number of goods and annual presents (Treaty No. 2, 1992: 1-4). Dickason notes that "[l]arge-scale land cessions had become the order of the day for the Ojibwa [...] between Lake Erie and the Thames River in Upper Canada" (Dickason 1997: 164). This is exactly the case for the Aboriginal peoples who signed Treaty #2 in 1790.

³ Adapted from the *Department of Indian and Northern Affairs Canada*. http://www.ainc-inac.gc.ca/ps/clm/cld/images/caldwellb_e.jpg

The Caldwell First Nation claims to have “never surrendered their rights to any land” (CFN 2006), and the Department of Indian Affairs indicates that the Caldwell First Nation “were not signatories of the 1790 treaty” (INAC 2006b). There are no records that identify the distinct and separate groups of Chippewa people that resided on the lands outlined in Treaty #2 of 1790 (INAC 2006b), and there are also no records to indicate who specifically benefited from the treaty payment. Also, because neither Chief Quineseas nor his father Chief Penabaweninne (who would have represented the Caldwell Chippewa people in 1790), or any other Caldwell ancestor had signed the treaty, there is no record that the Caldwell people agreed to a land cessation (INAC 2006b).

The Department of Indian and Northern Affairs states that “[a]fter 1790, Indian Affairs officials always recognized and treated the Chippewas under Chief Caldwell as a separate band” and “annual presents were issued to Chippewas under Chief Caldwell at Point Pelee in 1831, 1832, 1835, 1843, and 1845” and to Chief Robert Caldwell in 1851 and 1853 (INAC 2006b). James A. Clifton, in his history of Pottawatomi peoples, notes that the 1850 band list for Point Pelee indicates a “Caldwell’s Band” or “Point Pelee Band” that received presents at Amherstberg in 1830 (Clifton 113-115). Therefore, with the Caldwell people viewed by the colonial Indian Administration as a separate band, the absence of signatures of Caldwell leadership is the key to understanding whether or not Treaty #2 of 1790 should have applied to the Caldwell First Nation or their land at Point Pelee.

Abraham Iradell, a southern Ontario surveyor, noted that the forests on the shore of Lake Erie had considerable wood for British fleets. Many spaces on this land were subsequently set aside for British naval reserves (Pelee 2007), especially the tall, straight

white pine trees which the Crown saw as good for masting the fleets (Battin and Nelson 54-55). Point Pelee was not recognized as an Indian reserve, but some accounts have it being used as a Naval Reserve around the time of the War of 1812 (Rose, 2007b). Pelee's close proximity to Fort Detroit, Amherstberg (the Provincial Marine's dockyard), and the Thames River, certainly made it close to the action in the War (Hitsman 39). However, the military interests of the Crown authority were not the only interests in the land.

A year prior to Treaty #2 of 1790, there were interests in granting and cultivating the land at Point Pelee expressed by Pennsylvania Quakers (Battin and Nelson 45). Alexander McKee, who negotiated the Treaty, was unhappy with his residence at Detroit and he also had a personal interest in the land being negotiated (Nelson 1994: 197-205). Also prior to the 1790 treaty, a "secret treaty" was negotiated between a secretary of the Indian Department named Jacob Schieffelein and a group of "Ottawa Indians" which was eventually quashed by McKee and Schieffelein was dismissed (Nelson 1994: 197-198). In many ways this Treaty was a struggle between Indian Affairs officials to acquire land, not only for the Crown but for their personal gain, adding another element to the complex web of land interests that pressured the Caldwell people at Pelee.

The broader desire for European settlement and economic exploitation grew as the population of the British colony expanded (Tobias 1991: 128). After the Napoleonic Wars in the early 1800's, "a tide of Britons began to flow across the Atlantic to Canada" (Lambert and Pross 20). Between 1830 and 1833, British emigrants were entering Canada "faster than ever" (Lambert and Pross 22). Also, being so close to the border between the United State and British North America, there was a lot of movement being generated through present-day Windsor and Amherstburg (Rose, 2007b), with Loyalist Crown

soldiers settling those areas (Fryer 324), and the British essentially evacuating Detroit in the 1790's (Hamil 27).

At the time of Treaty #2 of 1790 "white squatters had been moving up the Thames in increasing numbers, building log huts along its banks, and planting corn in open spaces" (Hamil 1951: 3), with a significant number of families "squatting" on Pelee land by the early 1830's (Pelee 2007). Though there were financially stable United Empire Loyalists purchasing land around Essex County, a Caldwell First Nation member recounts that the squatters (or homesteaders) were largely penniless and lacked the financial resources to purchase land (Rose, 2007b). There were French Canadian squatters who "took up land" at Point Pelee in the early 1830's, and who may not have secured proper title to it (Battin and Nelson 54). This may be a result of lack of resources among other possibilities.

These squatter families are termed by Point Pelee National Park media as the "first white settlement within the Point Pelee Naval Reserve" (Pelee 2007). Although calling this a legitimate "settlement" is much too vague, these squatters were the first European inhabitants to come to the Pelee region, and the first to encroach on land that was thought to be ceded, but belonged to the Caldwell people.

Also, lower Thames historian Fred Hamil notes, "[a] horde of farmers was waiting to descend upon the lands, and the Indians knew that they would lose these favourite hunting and planting grounds forever" (Hamil 1951: 3). Apart from what Hamil thinks the Indians did or did not know, this account does demonstrate the tensions that were beginning to mount between different peoples and their desire to maintain or inhabit

land. The tensions between the Caldwell people and European squatters were no exception.

Accounts of early Crown surveyors Patrick McNiff, Abraham Iradell, and William Hambly, starting in 1791 after Treaty #2 was finalized, demonstrate the difficulties of surveying land while “respecting the rights of a few squatters and settlers on the ground before the surveys were started” (McGeorge 1924: 9). With the surveyors, hired by the Crown, interested in the rights of European squatters, there was a lack of interest in maintaining the rights of Aboriginal groups like the Caldwell people and their important connection to the land. This focus on the rights of the squatters and homesteaders is also apparent later. A Caldwell First Nation member recalled that in 1850 the Caldwell Chief was the local path-master at Point Pelee, but in 1852 a white homesteader was appointed as path-master (Rose, 2007b).

An initial complaint of white squatters encroaching on Caldwell land came from Chief William Caldwell and his son Chief Robert Caldwell in 1844, and it was supported by Head Chief Naatie of the Indigenous community of Anderdon near Detroit (INAC 2006b). In 1897, Senator David Mills revealed that he knew members of the Caldwell Band personally when they lived at Point Pelee and the local whites who had settled in the area after the War of 1812 knew that the Caldwells “held the Point as a reserve for nearly 40 years after the war” (INAC, 2006b).

Governor General Metcalf stated in 1845 that “he wanted the Indians on Point Pelee protected in their occupation unless the land was required for military purposes” (INAC 2006b). In that same year, Indian Superintendent Ironside wrote a letter to the Indian Department about a homesteader who was causing problems for the Caldwell

people. The local Indian Superintendent was subsequently instructed to protect the Caldwell Chippewa people from encroachments, and a squatter was eventually warned not to bother the Caldwell people (INAC 2006b). A Caldwell First Nation member recalls that white squatters/homesteaders on Pelee land felt they were within the law to encroach on Caldwell lands because it was not protected as a reserve (Rose, 2007b).

Although Point Pelee was not an ‘official’ reserve in the Crown’s eyes, the fact that the Governor General and Superintendent Ironside were explicit about Pelee belonging to the Caldwell people begs the question of how new European settlers viewed Aboriginals rights to the land. Even with these warnings and decrees, in the 1850’s the Caldwell people were being driven off the Point (INAC 2006b).

Some accounts had white settlement of the Pelee area at around 1820 (Battin and Nelson 53). Caldwell Band member homes, including that of Chief William Caldwell, appear on survey maps from 1850 and 1851. Surveyors recorded about 40 Chippewas had dwellings at Point Pelee, as well as about 30 white settlers (Clifton 110-117). By the time the 1861 Canadian census came, only five Caldwell families were listed at Point Pelee (Pelee 2007).

These dwindling numbers of Caldwell Chippewas on Pelee land demonstrated the impact of the white squatters as official records demonstrated that the Caldwell people dispersed after being pushed off Point Pelee in the 1850’s. Caldwell Chippewa people were recorded in census records as living in Mersea township (where Point Pelee is located), Romney Township and the Counties of Essex and Kent northeast of Pelee in the 1850’s, 60’s and 70’s (INAC 2006b). The Federal Census of 1871 lists 47 people who identify as having “Indian” origin in Essex County (with most living in Mersea and

Anderdon Townships). Many of the names listed match those of current Caldwell First Nation members (Dodge, Johnson, Peters, etc.) demonstrating the move from Pelee out through Essex County (Federal Census 1871).

From the official standpoint of the Crown, “Indian lands, including the new reserves, were among the crown lands upon which settlers were forbidden by law in 1839 to encroach,” and by 1850 “Indian lands were given special status by being protected from trespass by non-Indians [. . .]” (Tobias 1991: 129). An 1868 act outlining the management of Indian lands⁴ states that “no persons other than Indians and those intermarried with Indians shall settle, reside upon or occupy and land [. . .] occupied by any tribe, band or body of Indians,” and that anyone in breach of this act could be removed (Venne 1981: 4).

The failure of the Indian Agent to act on behalf of the Crown and protect the Caldwell people is not consistent with these policies of non-encroachment, but because Pelee was not recognized as a reserve (Clifton 110-117), there was no lawful protection (Rose, 2007b). The fact that the Crown assumed all relevant Aboriginal leaders had signed Treaty #2 of 1790 left the Caldwell people as an anomaly in the area: uncompensated and forced off their land, with pressure from squatters and homesteaders that was “not always harsh, but relentless” (Rose, 2007b).

The changes to Indian policy in the years just before and after Canadian Confederation in 1867 are very important and cannot be overlooked. Besides Acts put forth in the late 1850’s which encouraged “gradual civilization” and “enfranchisement” of Indian peoples, the “*Management of Indian Land and Properties Act*” of 1860 allowed

⁴ See *An Act for the Organization of the Department of the Secretary of State of Canada, and for the Management of Indian and Ordinance Lands*, 1868.

the Canadas to take control of Indian Administration from the imperial crown office (Dickason 1997: 225-226). This is significant because in 1869 the *Act for Gradual Enfranchisement of Indians* was formally passed, and in 1876 the *Indian Act* was passed. This consolidated and outlined formal powers and administration of Indian affairs to a new, greater extent in colonial Canada. As Milloy argues, between 1763 and 1860 when the British imperial government had control of Indian affairs, “Indian tribes were, de facto, self-governing” with “exclusive control over their population, land, and finances” (Milloy 1991: 144-145). However, with the advent of the *Indian Act* of 1876, Canada gained “extensive control of reserves and tribal nations” (Milloy 1991: 146). With the foundations of the Canadian Indian Policy being “assimilation” and “paternalism,” Indian agents “had the right to determine who was an Indian, could decide on the best uses for reserve lands and had other sweeping powers [. . .]” (McMillan 1988: 291). This is a significant factor when observing the failure of the Indian Agent to stop European encroachment on Point Pelee.

The new *Indian Act* consolidated powers in a “nation-wide framework” that saw new powers for the Superintendent-General of Indian Affairs (Dickason 1997: 258, 295). John L. Tobias gives an important example of the policy of enfranchisement through “location tickets.” He describes the location ticket as “(t)he most important innovation of the new *Indian Act*” and “a means by which the Indian could demonstrate that he [sic] had adapted the European concept of private property” (Tobias 1991: 132). The *Indian Act* of 1876 outlines the process of issuing location tickets. With consent of the band, any “Indian man, or unmarried woman, of the full age of twenty-one years” could be allotted land for the purpose of enfranchisement (Venne 1981: 47). After the band grants the land

to the individual, the Superintendent-General of Indian Affairs could grant a probationary location ticket (Venne 1981: 47). Therefore, an “enfranchised Indian” would have “letters patent for an allotted portion of the reserve to which they belong” (Venne 1981: 25). Tobias argues that this was a process aiming at eliminating reserves (Tobias 1991: 133). It was certainly a policy that had the notion of individual private property at its root.

A Caldwell First Nation member recounts examples of such policy:

There were campaigns that went on every couple of generations, or whatever, to eliminate Indian status [. . .] The Wyandottes of Anderdon were completely enfranchised [. . .] So, there’s no more Wyandottes of Anderdon band [and] the Department of Indian Affairs set to enfranchise the Caldwell Band [. . .] And they had heard of people enfranchising from reserves and getting a good bundle of money for doing it [. . .] So, our people thought that there would be some kind of monetary award for enfranchisement. (Rose, 2007a).

This is only a glimpse into legislation and practices that were amended and changed throughout Canadian history, but it is important because it demonstrates a governing structure that sought “to remove all legal distinctions between Indians and Euro-Canadians” (Tobias 1991: 130). With Point Pelee being encroached upon by squatters, and with the Caldwell people being forced off their land in the mid 1800’s, would the Caldwell Chippewa people have been a great concern for such a colonial administration? In fact, the movement of the Caldwell Chippewa people from Pelee may have been seen as a quicker method of assimilation into the European socio-economic fabric.

Eventually, the white squatters at Point Pelee started commercial fisheries, cash crop and livestock farming. Settlers came in greater numbers and hunted wild animals to

the point where much of the “wild game” was gone by the time settlers came to Point Pelee: “By the late 1800’s, deer had been completely wiped out” (Pelee 2007). Muskrat pelts also became a small industry as 10,000 pelts were taken from the Pelee marshes each spring shortly before the declaration of Pelee as a national park in 1918 (Pelee 2007). At this point, with the population of squatters and homesteaders growing, the legitimacy of the Caldwell people’s stewardship over the land was being questioned (Rose, 2007b). The odds were drastically stacked against the Caldwell people for maintaining their lands at Point Pelee.

War and Promises

Chippewa ancestors of the Caldwell First Nation and from the Anderdon area supported the British under Colonel Matthew Elliot in the War of 1812. This service was well known and stated by Indian Superintendent George Ironside Jr., and in 1897 Senator Mills recognized that Chiefs William Midwayosh Caldwell and Quineseas both served in the War of 1812 (INAC 2006b).

The contributions of Aboriginal people in the War of 1812 are well known. Major-General Isaac Brock commented on “[t]he conduct of the Indians under Colonel Elliot, Captain McKee⁵ and other officers of that department” (Ermantinger 1904: 56). Colonel Elliot and Captain McKee were said to have landed near Detroit with Tecumseh and six hundred Aboriginal allies in the War of 1812 (Lauriston 1952: 78).

⁵ Captain (and later Lieutenant-Colonel) McKee was the son of Alexander McKee who negotiated Treaty #2 of 1790. Alexander McKee died in 1799.

Hamil recounts “Caldwell’s Indians” attacking in the War of 1812 as well (Hamil 1951: 78). This is in reference to Captain William Caldwell. Captain Caldwell had a group of soldiers referred to as Caldwell’s (Western) Rangers that was comprised of volunteers from Kent County and many Aboriginal soldiers. Chiefs Quineseas and Midwayosh of the Caldwell Chippewa people both used the surname Caldwell (with Midwayosh using the full name William Caldwell). With both of these Chiefs serving in the War of 1812 under Elliot (friend and military comrade of Captain William Caldwell) one can only assume the use of the name by the Caldwell First Nation stems back to the service of Caldwell First Nation ancestors with Captain William Caldwell’s Rangers in the War of 1812.

Chief Midwayosh Caldwell claimed that Colonel Elliot told his father, Chief Quineseas Caldwell, that he could “seek land where he could find it: or take back Point Pelee” (INAC 2006b). However, no land was allocated for the Caldwell First Nation. The Caldwell people and leadership relied on the promise of land for service in the War of 1812, but some officers did not survive and promises fell through (Rose, 2007b). The promise to land for service in the War of 1812 would serve as an important historical juncture that added a new element to the Caldwell First Nation’s struggle and the problematic initiatives for colonial powers to deal with the Caldwell people’s claim to land.

In the early 1880’s, Indian Inspector Dingman revisited the Caldwell struggle to regain land and suggested settlement on Walpole Island, which was already home to the Ojibwe of Bkejwanong. With no land available and concerns from the residents of the reserve, this plan fell through (INAC 2006b). Indian Affairs official Duncan Campbell

Scott investigated the Caldwell Claim in 1895. The Department of Indian Affairs notes that he looked for land that could be used for a reserve, including lands at Point Pelee, but “concluded it was too expensive.” (INAC 2006b). The Caldwell First Nation recalls Chief Robert Caldwell, also in 1895, working with the Federal Government to try and buy some local farmland and pair that with the marshland at Point Pelee for compensation (CFN 2006).

However, there are also accusations that the government mistook Chief Robert Caldwell for his cousin, John Caldwell, and this caused a confusion and was part of the reason the potential resolution in 1895 did not come to fruition. John Caldwell moved to Walpole Island and wrote from there to the Department of Indian Affairs. With the Canadian administration under the impression that John Caldwell was the Chief (mistaken for Robert Caldwell) living at Walpole, it was suggested that all the Caldwell people should relocate there (CFN 2006). This may have had Indian Affairs confused and contributed to the plan being thrown out.

Members of the Caldwell Band camped out at Point Pelee National Park in 1922 in protest of the loss of their land. A petition was presented to the Government of Canada and the Caldwell protestors camped through the summer and left in the fall (CFN 2006). Also at this time, pressure from Kent and Lambton County councils urging a solution to the Caldwell land dispute was evident (CFN 2006). Then, in 1923, another plan was developed. This plan was to settle the Caldwell people on St. Ann’s Island (INAC 2006b). With the attempt to settle on Walpole Island falling through, St. Ann’s Island (located to the East of Walpole Island and also part of the Ojibwe of Bkejwanong’s territory) was discussed as an alternative. Ultimately, there were complications with the

St. Ann's Island deal because "the Caldwell Indians refused to settle there," partly because they alleged that "they had been intimidated by the Walpole Island Indians" (Nin.Da.Waab.Jig 1987: 63, 75). The Walpole Council did object to using St. Ann's Island as a settlement for the Caldwell people, seeing as the proposal did not have the consent of the Walpole people. Regardless, Caldwell Chief Archie Dodge was still optimistic about the potential of settling on St. Ann's Island. However, in 1925 the proposal was deemed too expensive and it was finally abandoned (CFN 2006).

So, as the Caldwell people moved into the middle of the 1900's, all the proposals for land settlement had failed and they were still struggling for a concrete solution to the loss of their land.

Agreement-in-Principle

A public announcement was made by Chief Carl Johnson in 1974 outlining the Caldwell First Nation's rights to Point Pelee, and a formal claim to Pelee lands was made to the Government of Canada in 1987 (CFN 2006). It was not until 1995 that the Government of Canada, through the Department of Indian Affairs, concluded that:

[. . .] although the Caldwells did not sign the 1790 Treaty or receive any of the benefits provided for the Treaty, it is Canada's position that their aboriginal title was extinguished nonetheless. Following the same logic, since the 1790 Treaty extinguished the aboriginal title of the Caldwells in the same way it did for other First Nations in the area, the Caldwells should be entitled to receive the same benefits under the Treaty that the other First Nations received [. . .] Canada's obligation is to provide the band either with alternate lands, or with the means to acquire land (INAC 2006a).

In 1998, an Agreement-in-Principle (AIP) was reached between the Minister of Indian Affairs and the Caldwell First Nation. According to this Agreement the government promised to pay the Caldwell First Nation \$23.4 million over a five year period, with \$15 million being used for the purposes of buying land, and the rest for negotiation expenses and facilities for the new proposed Native community. The Caldwell First Nation would buy land on the open market from private landowners which, after approval, would become reserve lands. This Agreement applied to land south of the Thames River, particularly near Blenheim (former town in Harwich Township, now located in the south of the amalgamated Municipality of Chatham-Kent) – an area covered by Treaty #2 of 1790 and also where the Caldwell First Nation head office was located.

Up to 4,500 acres of land would be able to be recommended for reserve status. Also, the 70 acres that were already owned by the Caldwell First Nation would be recognized as reserve land, apart from the additional 4500 acres. The time-frame for purchasing land was limited to a 25 year period (INAC 2006d). After purchasing land, the Caldwell First Nation would first hold the land as fee-simple, and then apply to have the land considered for reserve status under the Additions to Reserve Policy at the Department of Indian Affairs for up to the 4,500 acres (INAC 2006a). These moneys allotted to the Caldwell First Nation would be the “means to acquire land” as outlined by the Department’s statement.

This agreement fell under the Specific Claims Policy which deals with the failure of treaty obligations on the part of the Canadian Government (RCAP 2006). The Ministry of Indian and Northern Affairs describes the Specific Claims policy as “resolving

historical grievances through negotiation,” because of the “non-fulfillment of a treaty” or the “breach of an obligation arising out of government administration of Indian funds or assets” (INAC 2006f). In this case, with the argument by the Caldwell First Nation that its leadership did not sign Treaty #2 of 1790, there was a clear “historical grievance” in direct relation to a treaty.

Under the Specific Claims Policy, the Caldwell First Nation had to provide adequate historical evidence of their claim; the information was then submitted to the Department of Justice (which works in conjunction with the Department of Indian Affairs in Specific Claims to help determine the validity of the claim) to conclude whether the government had a lawful obligation to the Caldwell First Nation. This conclusion signified that Canada did have a lawful obligation to the Caldwell First Nation, and the Government was prepared to provide land or the means to acquire land.

Most importantly, this response from the Ministry begs a couple of important questions. The first is: Why was the Caldwell First Nation’s title to the land “extinguished nonetheless” even though no Caldwell Chippewa leaders signed Treaty #2 of 1790? The second question is: What constitutes “alternate lands” or “the means to acquire land?”

The unique part of this case is that, in the department’s response, although it is acknowledged that the Caldwell First Nation leadership did not sign the treaty, the government interprets the title to the land as extinguished. Specific Claims policy deals with the government’s historical breach of treaties (Miller 1989: 261), which adds confusion to the case of the Caldwell First Nation. How can a treaty be breached if it was never signed? What gives the Canadian government the right to decide that title is

extinguished, and that an assumption that the treaty still applies to the Caldwell First Nation will be appropriate? The Royal Commission on Aboriginal Peoples (RCAP) is apt in its criticism of how “[c]laims negotiations have managed to take on a life of their own, leading to settlements that do not address the original grievance or vindicate the original assertions” (RCAP 2006). This seems to be the case of the Specific Claims policy in the Caldwell case, as the original grievance is that Treaty #2 of 1790 was never signed.

The history of the Teme-Augama Anishnabai and Temagami First Nation has some comparable circumstances. In 1991, in regards to a claim to land, the Ontario Attorney General filed a case in the Supreme Court of Canada against the Teme-Augama Anishnabai and Temagami First Nation. The ruling stated that the “appellants had no Aboriginal right to the land, and that even if such a right had existed, it had been extinguished by the Robinson-Huron Treaty of 1850” because “the Indians adhered to the treaty in exchange for treaty annuities and a reserve” or “because the treaty constituted a unilateral extinguishment by the sovereign” (Supreme Court of Canada 1991).

This case sheds some light on the Caldwell situation, as this Ontario Court of Appeal decision in *Bear Island* was used by the Department of Indian and Northern Affairs as legal precedent and justification for their opinion on the Caldwell case (INAC 2006b). Like the case in Temagami in regards to the Robinson-Huron Treaty, the Caldwell Chiefs and people were receiving annual presents (annuities) after Treaty #2 of 1790 was negotiated. This was not necessarily grounds for ‘unilateral extinguishment by the sovereign’ because these annuities were also given to Aboriginal people as compensation for fighting in the War of 1812, not just as a result of treaties. However, these cases put the logic of the government in context and in question as consistent,

although not necessarily just, for the government to assume the Caldwell people's title was extinguished.

The second question of why the Department of Indian Affairs used "the means to acquire" land instead of actual land is also important. In 1943, the federal government acquired Bear Island in Lake Temagami from the province of Ontario (as the land had been formerly designated as a provincial forest reserve) and in 1971 assigned it to the Aboriginal people at Temagami (Hodgins and Benidickson 217). Why did the government not do the same for the Caldwell First Nation? The Department of Indian Affairs argued that the Caldwell First Nation could purchase land in the Blenheim area because it fell under Treaty #2 of 1790, but there was no attempt to find land to suit the Caldwell First Nation nor was there negotiation between the federal and provincial governments to find land because, unlike the Temagami case, the original Caldwell land had not been a provincial forestry reserve.

Point Pelee was turned into a National Park, but there are non-operating provincial parks within the area covered by Treaty #2 of 1790 (Komoka for instance). Also, Rondeau Provincial Park (just south-east of Blenheim) was entertained as a possible location for the Caldwell First Nation, with Caldwell members living at Rondeau Park to this day (Rose, 2007b). If the government considered St. Ann's Island and Rondeau Park for a reserve settlement, why not negotiate with the province to find some land that falls under the Treaty? After all, it was not unprecedented to do so.

The Department of Indian Affairs stated that the Caldwell First Nation was entitled to receive the same benefits from Treaty #2 of 1790 that other Aboriginal people received, but those same benefits are not available (whether land or the £1200 in goods).

Therefore, since the original reserve land at Point Pelee was not available, the money to acquire lands would be restitution (INAC 2006b). Miller points out that Specific Claims are not just matters of land but deal with compensation and restitution (Miller 1989: 261). In this case, the compensation is funds to purchase lands fee-simple on the open market, and the restitution is the possibility of a new reserve.

Only after a ratification vote by the members of the Caldwell First Nation, along with signatures from the Caldwell First Nation Chief and the Minister of Indian Affairs would this AIP become final. In August of 2003 a ratification vote was held and the Caldwell First Nation people turned down the AIP. This vote was appealed with accusations of improper facilitation on the part of the Department of Indian Affairs. A new vote option was announced in 2007, yet to be carried out.

Blenheim

With the history and struggles of the Caldwell Nation put into perspective, the non-Aboriginal history needs to be framed in order to understand the CKCN and its position in relation to the Caldwell First Nation. The AIP specified that land could be purchased in the area covered by Treaty #2 of 1790. At the time of the AIP the head of office of the Caldwell First Nation Band Council was located just to the south of Blenheim, Ontario. Though members of the Caldwell First Nation live in many different communities in southern Ontario, the Blenheim area was the place chosen to purchase land to potentially create a reserve. This area was certainly included in the lower Thames valley covered in the 1790 treaty, and it is close to Rondeau Bay, which is home to many

Caldwell people and is also a place of historical occupancy for Chippewa people (Hamil 6). Therefore, this is where the land deals would take place.

The community of Blenheim, located in the south of the Municipality of Chatham-Kent (former Harwich Township) was officially named a town in 1885. Its existence as a town, like many, was largely due to its geographical placement. Two important bodies of water in that area of south-western Ontario are the Thames River and Rondeau Bay (off of Lake Erie). Aboriginal peoples in the area had established trails from Rondeau Bay in the south to the Thames River in the north (Hamil 7), and with Chatham being a growing community around the Thames River, it made sense that a road would eventually be built all the way to Rondeau Bay. The halfway point of this road, eventually Communication Road, is present-day Blenheim (Armstrong 33). Also important is the fact that Blenheim is located on a steep, natural ridge, along which another Aboriginal trail was located (Hamil 7), marking the eventual site of Blenheim as an important crossroad.

Originally known as the “Ten Mile Bush,” the area was covered with dense Carolinian forests with roaming wild elk, bear, wolves and eagles (Hamil 15, 258, 310). Land surveyors were assigned to the area in 1790 and the first land assignments were made in 1792 (Hamil 18). In the 1790’s considerable amounts of land near Blenheim were given to “prominent wealthy people,” the clergy, officers, and magistrates (Hamil 27-28). In fact, most of former Harwich Township (in which Blenheim was located) was “tied up” in reserves for these people (Hamil 28).

The first recorded settlers arrived around the early 1830’s (Hamil 310-311). However, settlement didn’t really start to balloon until Colonel James W. Little bought

some land, divided it into lots and started to sell it for settlement in the 1840's (Lauriston 277). With the arrival of European pioneers, the forests were cut down, which opened up the rich, fertile soil for farming. Logging and milling were obviously the first industries as the trees fell, with two steam saw mills in operation in 1864 (Lauriston 280). However, once the forests were cleared (and the elk, bear, wolves and eagles were gone), the "Ten Mile Bush as such was gone, having gradually been reduced to a patchwork quilt of farms with woodlots on the back acres" (Armstrong 109).

The primary industry gradually changed from lumber to agriculture, with the transition well under way by 1885 (Armstrong 109, 288), with a significant population of 1,212 recorded in the 1881 census (Lauriston 280). This was a transition from the "Ten Mile Bush" to Blenheim's more contemporary moniker, the "Heart of the Golden Acres."

Although the present-day economy is more diverse, even a superficial glance of the area will still reveal that "patchwork quilt" of fields growing corn, beans, tobacco, onions and wheat among many other cash crops. What a quick glance will also reveal is the presence of many large-scale corporate farming logos such as Dekalb, Pioneer, and Hyland Seeds. Thomson's grain mill is still an important company in town that employs locals and engages in international agribusiness.

Connected to this economic reliance on farmland is the employment of international farm labourers. Largely from Mexico and the Caribbean, many labourers come to the Blenheim area to harvest tobacco, tomatoes, and other cash crops.⁶ There is an obvious economic hierarchy that exists between the white farmers (land owners) and

⁶ The film *El Contrato* follows Mexican workers as they labour in Leamington, ON (approx. 60km west of Blenheim) at a tomato farm. It is a critical examination of the working conditions, wages, and exploitation of international workers in this area of the province, and sheds much light on the conditions of international workers in the Blenheim area as well.

the international labourers in the Blenheim area, which conditions the construction of whiteness in Blenheim.⁷ This construction of whiteness is important in its direct relation to agriculture. The white farmers own and operate the farms, and the international workers do the labour at minimal expense to the owners. These roles, characterized by race and class, are important when considering how CKCN members made assumptions about how the Caldwell First Nation would use farmland. Are there common assumptions about how the “other” uses, or ought to use, farmland?

The importance of farmland and agriculture in Blenheim’s history and culture was stressed by the CKCN in its criticisms of the Caldwell First Nation land claim. It is this language surrounding agricultural land that will help answer what the CKCN’s motives and logic were for its investigation of the negotiations between the Caldwell First Nation and Indian and Northern Affairs Canada.

These agricultural arguments that the CKCN used in the media constructed a struggle between a dual, competing historical narrative of the area around Blenheim. One narrative was of a First Nation that had lost its historical land base and had been struggling to gain land back. The other narrative was of local non-Aboriginal residents, many of them farmers and descendants of European pioneers, who had an interest in the land – a historical connection that was deemed threatened by the contemporary and historical struggles of the Caldwell First Nation.

⁷ One only has to visit the living quarters of seasonal international workers, provided by some local farmers, to understand this hierarchy. The dichotomy between the large farmhouses and the small shacks for the workers is a great material example of this. These are living quarters without full amenities. Many workers have to hitch-hike or cycle from the farms into Blenheim just to make an international call at a pay phone. There are, of course, other barriers and disadvantages for international workers (low wages, lack of representation, etc.).

Chapter 3: The CKCN

Beginnings

“We are a group of intelligent people trying to find answers to some very legitimate questions.” – CKCN Spokesperson (Bendo January 18, 1999).

On December 15, 1998 the *Chatham Daily News* reported that the Caldwell First Nation had reached a land claim agreement with the Department of Indian Affairs and Northern Development (DIAND). The article noted that the Caldwell First Nation was buying land from local property owners through a company called CB Kent Farms Inc. (which was holding the land in trust), and there were plans for the land to be turned into a reserve (Cornell Dec. 15, 1998). Three days later, on December 18, the *Chatham Daily News* reported more details on the agreement based on a statement released by the Caldwell First Nation, DIAND, and the Indian Commission of Ontario. The statement outlined how the Caldwell First Nation was to receive \$23.4 million to purchase land on the open market over a 25 year period and apply to have it turned into a reserve, pending a vote by the Caldwell First Nation membership (INAC 2006a-f).

Councillors from the Municipality of Chatham-Kent’s South Kent ward (which encompasses the former town of Blenheim) reported the details to the Chatham-Kent council, as outlined to them from the local Member of Parliament Jerry Pickard. Immediately, council raised concerns about “the loss of property tax dollars resulting from the establishment of a reserve” (Cornell Dec. 15, 1998). Both Pickard and a local

municipal councillor member expressed concern over rumours that were building in the community about the agreement, and that the development of a reserve “would obviously be a concern” to locals (*BNT* Dec. 16, 1998). One municipal councillor noted that the questions from the people of South Kent had a “negative” focus and that their “experience with Indian bands has not been good” (Kok-Wright Dec. 18, 1998). And the mayor of Chatham-Kent, Bill Erickson, referred to the potential reserve as “a government unto itself” taking “no orders” (Cornell Dec. 15, 1998).

This was the beginning of the dissemination of information about the Caldwell First Nation land claim agreement to the people of Chatham-Kent. The media information was vague as the particulars of the agreement were reported. The municipal councillors and MP had little knowledge of the land claim at the time of the information meeting, with MP Jerry Pickard stating he was “totally unaware” of the agreement-in-principle beforehand (Kok-Wright Dec. 18, 1998). He expressed concern that it was “high time” information about the agreement was made public, and that he only learned of this agreement 10 days before the statement was released by DIAND (Kok-Wright Dec. 18, 1998). With limited or no information about the agreement, there seemed to be a concerned reaction from local politicians in late December of 1998.

The questions and limited information about the agreement between the Caldwell First Nation and DIAND culminated in a packed gathering at the Blenheim District High School cafeteria on December 21, 1998. This meeting was attended by over 1000 people and organized by a local resident and other “concerned citizens” in Chatham-Kent. Also in attendance was Judy Glover from the DIAND, Chatham-Kent Mayor Bill Erickson, municipal councillors and the local MP (*BNT* December 23, 1998). At this meeting, MP

Pickard announced that he was “the last to know” about the agreement, and Chatham-Kent mayor Bill Erickson echoed this by stating that the Chatham-Kent council had “no advance information of a reserve being established in the municipality” (Boughner Dec. 22, 1998). Pickard also noted that since information about this agreement had become public, he had received “numerous calls, faxes, and letters from constituents” who had concerns about the agreement and the potential creation of a reserve (Boughner, January 21, 1999).

This group of “concerned citizens” that helped organize the meeting in Blenheim, and had concerns about the establishment of a reserve, was the precursor to what would become the Chatham-Kent Community Network (CKCN). The meeting organizer eventually became a prominent member and spokesperson for the CKCN (*BNT* January 27, 1999 and *CDN* February 18, 1999). The CKCN was officially created later in December of 1998. (Boughner January 11, 1999).

Initial Purpose

Echoing the questions of local politicians, a Chatham-Kent Community Network administrator said that the CKCN members “don’t know what they [the DIAND and Caldwell First Nation] negotiated” (Bendo February 20, 1999). This lack of knowledge is what spurred the establishment of the group.

The CKCN described its purpose on its now defunct website. The motives were “to investigate the Caldwell First Nation land claim and settlement agreement, represent the interests of residents and businesses in south Chatham-Kent who have been left out of

its negotiation process, and provide information to the community as it becomes available” (CKCN July 6, 2000). It was described as “a volunteer group” that was formed “out of a sense of frustration that the citizens of Chatham-Kent were not included in the process” that could create a reserve in the area. (CKCN January 25, 1999).

In the early media reports, the CKCN members and spokespeople were focused on finding information. The organization, in its primary stages, seemed to be an information gathering source. Searching, finding and sharing information was at the centre of the CKCN. The members wanted answers to questions, and to have input in any discussion of a reserve being created in the area. A CKCN member outlined this succinctly by saying, at the CKCN’s outset, “[t]he purpose of the group is to search for information and share it with the community [. . .]” (Cornell Dec. 24, 1998). The member continued to say that the CKCN had “banded together to find out more information about the Caldwell First Nation’s settlement with the federal government [. . .]” (Cornell Dec. 24, 1998).

A CKCN spokesperson stated that its members were “a group of intelligent people trying to find answers to some very legitimate questions.” (Bendo January 18, 1999). Also, in a press release printed in the *Blenheim News Tribune*, the CKCN stated a commitment to “getting straight answers on other concerns that our supporters have voiced” and that the organization was “committed to communicating with south Chatham-Kent” (*BNT* March 5, 1999). The release continued to say that once the group could get answers to their questions, there would be a distribution of information on the CKCN website for the community (*BNT* March 5, 1999).

The CKCN was also described as wanting to “fill the information void” related to the potential establishment of a reserve and the agreement between the DIAND and Caldwell First Nation (*BNT* Jan. 13, 1999 and Boughner Jan. 11, 1999), and to “assess and understand potential impact of a reserve” (*BNT* Jan. 13, 1999).

The CKCN quickly opened an office on the main street in Blenheim next to Blenheim Publishers, the publishing office of the *Blenheim News Tribune* (*BNT* Jan. 13, 1999). A CKCN administrator described the CKCN and its office as “a place to ask questions, to look up maps, to sign up for action committees, to volunteer to answer phones or write letters” (Boughner January 11, 1999). In this sense, the CKCN was not only an investigator, but also provided a resource centre for the broader community.

From these descriptions it can be gathered that the CKCN was an investigative organization. It was organized to “search,” “look up,” “find out,” “find answers,” and “fill the information void.” But, it was also a communicator as it was organized to “share” and “distribute” information with the community. Also, the CKCN was a provoker and an interpreter as it wanted to get “straight answers” to its questions, and it was designed to “assess and understand” as well as “advertise” the phenomena that it found important. It seems, at the CKCN’s outset, there were many functions to this organization. Ultimately it was a sort of facilitator: it would investigate, assess, distribute and create a space to “write letters” and start “action committees” for the community. It was an organization for the “concerned citizen” that was willing to facilitate these processes.

Concerned Citizens

It was reported that “concerned citizens” organized the first information meeting about the Caldwell First Nation land claim and agreement (*BNT* December 23, 1998). CKCN members and spokespeople routinely used “concerned citizens” to define the organization. One spokesperson described the CKCN as “a collection of a number of concerned citizens” (Cornell December 24, 1998). A CKCN administrator also described the organization as “a concerned groups of citizens calling for an open and consultative process in resolving native land claims in Canada” (Boughner January 11, 1999). It was an organization looking to take “whatever concerned citizens want to contribute [. . .]” (Boughner January 11, 1999). Another CKCN spokesperson spoke of “concerned residents” and how they are “raising a concern or asking a question about what’s happening” (Bendo February 20, 1999). Local farmers involved with the CKCN echoed these descriptions stating that local residents were “concerned about the use of Chatham-Kent’s rich farmland” (Kok-Wright March 4, 1999), and “very concerned with the development of a reserve” near their property (*BNT* March 1, 2000). Even the local Liberal MPP Pat Hoy (Essex-Kent riding) used the same language, saying he was “concerned about the future of agricultural land and Rondeau Provincial Park” (Cornell Dec. 24, 1998).

It is clear that the CKCN as a group was “concerned,” and that it was established to work with other “concerned citizens” of South Kent. The specific concerns were ambiguous, or not yet identified as the organization had just been created, but with the lack of information, it was clear that the attention of the CKCN membership was engaged

with this land claim agreement and their future relationship to its outcome. The use of “citizens” to describe the CKCN membership is interesting. It is an ambiguous term in the sense that it is not totally clear whether the CKCN was talking of Canadian citizenship, or rather a sense of community membership at the local or municipal level. The idea of being composed of only citizens does limit the CKCN to a particular group – a sort of closed, specific group of people: those with “citizenship.” Of course, the questions and concerns of the CKCN were in their early stages and perhaps the ambiguity of the description of the CKCN’s purpose was because the organization was still in the process of acquiring information and figuring itself out.

DIAND: The Adversary

As the CKCN matured, the main focus of its investigations and criticisms became DIAND and the federal government. One CKCN member frankly said that “[w]e [the CKCN] hold DIAND fully responsible for all conflict that has occurred in this community through their secretive and negligent actions” (BNT, Jan. 26, 2000). Another CKCN member described DIAND as having a “secretive policy of negotiating and settling land claims” and a “negligent disregard and lack of communications to communities impacted by their decisions [. . .]” (Bendo Feb. 20, 1999). DIAND was described as creating an “environment of confrontation and distrust” and a “poisoned environment of conflict and tension [. . .]” (Bendo Feb. 20, 1999). This accusation that DIAND and land claim process was secretive was a central argument of the organization.

The CKCN was concerned that the non-Aboriginal community did not have any input in the land claim negotiations, which had created a confrontational environment. There was a fear from the CKCN that DIAND, after creating this “poisoned” environment, would “simply walk away from it when it believes its historical obligation is met [. . .]” (Bendo Feb. 20, 1999). This gave the impression that the CKCN believed DIAND had made a mess, and was not going to clean it up. There was concern from a CKCN member that “[w]hile the federal government [DIAND] may facilitate the formal establishment of the Caldwell First Nation into this community, it will not be a long-term participant in the day-to-day management of neighbourhood relations here” and pointed to “the lack of dialogue between the federal government and the community” as the problem (Bendo Feb. 21, 1999).

The core members of the CKCN had an opportunity to voice concerns to the Minister of DIAND Jane Stewart. She travelled to Chatham in January of 1999 to discuss the land dispute and met with Chatham-Kent Mayor and Council, the CKCN and the media. The meeting was arranged by local MP Jerry Pickard, who also met with Prime Minister Jean Chrétien and Jane Stewart to express concern from constituents (Boughner Jan. 21, 1999). When Robert Nault took over the job as minister of DIAND, the CKCN invited him to travel to Chatham-Kent to discuss concerns as well (McCrindle Aug. 5, 1999); however he did not make a trip.

Based on the language used in relation to DIAND, the CKCN assumed a critical position. The CKCN members viewed the situation as one of “conflict,” “confrontation,” and having a “poisoned” environment. It would be obvious to say that the CKCN wanted DIAND to mend any problems in the community, or to prevent any further conflict with a

more open process of negotiation with the Caldwell First Nation. Any discussion of community led methods of improving any conflict was absent from the CKCN discourse. However, as I discuss later, the CKCN eventually takes a more proactive role in the Caldwell First Nation land dispute.

Caldwell First Nation: Not the Adversary

A common theme in the CKCN discourse was the distinction that the organization's struggle was with the federal DIAND and not the Caldwell First Nation. A CKCN member was quoted in the *Chatham Daily News* as saying that the CKCN had "no quarrel with the Caldwell First Nation. Our quarrel is with the Canadian government" for "conducting secret negotiations without providing the community with an opportunity to understand or contribute to the determination process" (Cornell December 24, 1998). A CKCN spokesperson, echoed this, saying "this isn't an attack on the Caldwells, but a need for all parties involved to assess what's happening [. . .]"(Bendo January 18, 1999). And in a letter to the *Chatham Daily News*, another CKCN member repeated this, saying: "Our quarrel has never been, nor is it now, with the Caldwell First Nation [. . .]" (Stirling Jan. 7, 2000). It continues with CKCN members noting they "have nothing against the Caldwell First Nation living as our neighbours" (BNT, March 1, 2000) and that "[t]he [non-Aboriginal] community has never opposed the full participation of aboriginal residents [. . .]" (BNT Jan. 26, 2000).

This poses the question: Why did the CKCN members have to make it so clear that they were not in opposition to the Caldwell First Nation, but rather the DIAND? The

answer lies in a concern expressed by a CKCN member, who said that relations in the community were “strained as concerned residents are called “racist” for merely raising a concern or asking a question about what is happening” (Bendo Feb. 20, 1999). A CKCN spokesperson argued that this issue was “not one of racism” but rather “an issue of fairness” (Johnston January 29, 2000). A supporter of the CKCN, in a letter to the *Chatham Daily News* argued that accusations of racism were “unfair and inappropriate,” and that they distracted people from the “real issues” (Langstaff June 28 2000).

These statements are important because they acknowledge that some people in the neighbouring communities viewed the CKCN as being racist. It then explains why the CKCN spent time arguing that the organization was not working against the Caldwell First Nation, but rather was opposed to DIAND.

Purpose: Something More Ambitious?

With a basic sense of the initial purpose of the CKCN, and where the energies of the organization were directed, it is important to probe deeper and more critically into these questions. A closer look at the language the CKCN used reveals that the membership sought to do much more than just investigate and distribute information. The CKCN eventually sought to make changes to the current land claim process, and take a proactive approach to preventing the agreement-in-principle from being implemented.

It was reported in the *Chatham Daily News* that the CKCN wanted the Minister of DIAND “to reopen negotiations on the Caldwell land claim so the community can have a say” (CDN Feb. 18, 1999). A CKCN member was “deeply disappointed that the

opportunity for input into decisions [was] being denied them” (*CDN* Feb. 18, 1999). The possibility of reopening negotiations was much larger than simply investigating the land claim.

There was a letter campaign organized by CKCN members that sought to “inform the Prime Minister and the minister that the public wants to have input in the process involved in setting up or expanding First Nation reserves in Canada.” (Boughner Jan. 21, 1999). The CKCN called for “an open and consultative process in resolving native land claims” and “a process that involves all stakeholders [. . .]” (Boughner Jan. 11, 1999). And the *Chatham Daily News* reported that the CKCN wanted to “exert political pressure to open up and change the process of creating and expanding reserves across Canada [. . .]” (Boughner Jan. 11, 1999).

The possibility of having negotiations reopened and having input in any land claim process was much more than an investigative position. The CKCN was essentially proposing major changes to DIAND land claim processes. The next step for the CKCN was to set some priorities for how members thought the agreement should change. The eventual issues that would come out of the CKCN were to have the size of the reserve limited, to decrease the 25 year land purchasing period to 5 years, and to make sure all provincial and municipal laws would apply on any potential reserve. (Laurie March 5, 1999). At this point, more specifics began to develop and the CKCN started to identify its areas of concern.

Tactics

“The only way to stymie this deal is not to sell your land” – Chatham-Kent Mayor Bill Erickson (Boughner, Dec. 22, 1998).

Not For Sale:

It was at the packed meeting in the cafeteria of Blenheim District High School, on December 21, 1998, that Chatham-Kent Mayor Bill Erickson told the people that “[t]he only way to stymie this deal is not to sell your land” (Boughner Dec. 22, 1998). He went on to say that “it’s very difficult for you not to accept two, possibly three times the value of your property, but by not selling would [*sic*] definitely stymie the issue” (*BNT* Dec. 23, 1998). It was four months later that the *Blenheim News Tribune* reported signs with the words “Not For Sale” being put up on farms in the area the Caldwell First Nation was looking to purchase land (*BNT* Apr. 7, 1999).

It is important that the first public call for South Kent residents not to sell their land came from the Mayor himself. It was the highest elected municipal government official who first called on residents to not sell their land. This process was continued by the CKCN through a very visible “Not For Sale” campaign, which begins to link the discourse and perspective of the CKCN to the local governing forces in Chatham-Kent.

The CKCN “printed the signs” (Mackey 17) and a spokesperson stated that they “were a direct response to DIAND’s “willing seller, willing buyer” premise surrounding land acquisition,” and they were a symbol of outrage (CKCN Apr. 27, 1999). The

Chatham Daily News reported in February of 1999 that the “Not For Sale” signs started to “blanket the area” and were aimed at Caldwell First Nation aspirations for a “home” or land base (Schmidt Feb. 1, 1999). In a letter to the editor of the *London Free Press*, a Caldwell First Nation supporter explained that the “Not for Sale” signs “were donated and put up by CKCN members” (Johnson, Feb. 16, 1999) and Caldwell First Nation Chief Larry Johnson, in a letter to the *Southern First Nations Secretariat*, claimed that “[t]he CKCN have financed about 1,000” Not For Sale signs that were given out to CKCN members and allied protest groups (Johnson Jan. 13, 1999).

A website run by Caldwell First Nation supporters created a petition that criticized the “Not for Sale” campaign as racist (Pickens 2004). This demonstrated some criticism coming from outside both the Caldwell First Nation and the CKCN.

However, there was also support for the “Not For Sale” campaign in the press. In a letter to the *Ridgetown Independent* (a weekly newspaper located in Ridgetown, a few miles east of Blenheim), a local resident wrote of the meaning of the “Not For Sale” signs. The resident’s argument was that some people were not selling their land because of “[t]he future of their families to continue building on that land,” as well as “[t]heir family history” which this resident believed to be “totally disregarded because someone else can claim they were here even earlier” (Langstaff Apr. 7, 1999). This local resident, a clear supporter of the “Not For Sale” campaign (though not explicitly supporting the CKCN), demonstrated an insecurity of family history and land use. If land is bought fee-simple on the open market, owners have the ability to use the land any way they choose within the law. Why was there a concern of land and family history only in regards to the

Caldwell First Nation's purchase of land? This concern of land was central to arguments in opposition to a potential reserve, as well as to the CKCN's discourse.

South Kent Property Development Corporation Inc.

On December 17, 1998 the *Chatham Daily News* reported that a real estate agent in Chatham was "trying to rally property owners and businesses to block a proposed Indian reserve across much of South Kent." This proposed action was designed to create a "formal organization" that could "give farmers and rural residents an alternative to selling their land and buildings to Caldwell First Nation" (Cornell Dec. 17, 1998). Three months later, in March of 1999, it was reported that a "right of first refusal" company had formed "to provide an option for homeowners to sell their land" (Kok-Wright March, 4, 1999). According to the *Chatham Daily News*, the South Kent Property Development Corporation (SKPD) had "virtually cornered the real estate market in South Kent," and "started a campaign to get the first right of refusal for land in the area" (Kok-Wright, March, 4 1999).

The *Chatham Daily News* reports the function of the SKPD with information from a local farmer and CKCN member:

"[W]hen a seller has a signed offer, they will bring it to the corporation and it can match the offer. The seller is then obligated to sell it to the corporation [. . .] many people approached the development corporation offering to sign first right of refusal papers [. . .] the group is not against the establishment of a reserve, they're just concerned about the use of Chatham-Kent's rich farmland" (Kok-Wright March 4, 1999).

The question of who is involved in the SKPD is important. The *Chatham Daily News* reports another CKCN member, as a spokesperson for the SKPD, asking “to hear from anyone who wants to sell property in the area” (Bendo January 18, 1999). Also, a “board member of the Chatham-Kent Community Network” stated that the SKPD might cause “the federal government and the band to rethink the strategy [. . .]” (Kok-Wright March 4, 1999).

These are important phenomena because they link the SKPD and the CKCN. The media identifies at least three core members of the CKCN as being involved with, or supporting, the SKPD. This link brings out an important contradiction in the logic of CKCN members. One spokesperson stated that the SKPD was “not against the establishment of a reserve” (Kok-Wright March 4, 1999). However, both that person and the others working with the SKPD were part of the CKCN, which was opposed to a reserve for much of its existence, as will be detailed below. This could be a simple case of the CKCN membership trying to work out their official position, but the link between the CKCN and SKPD at least puts the reason behind the creation of the SKPD into question if it was populated by prominent CKCN members.

This brings up more questions. If the SKPD was “not against the establishment of a reserve,” then why was the organization created? There had not been an organization prior to the Caldwell First Nation land claim that was willing to challenge offers to purchase land. If some group other than the Caldwell First Nation was purchasing land, would the SKPD still have been organized? I would argue that this language, as well as the connection between the CKCN and the SKPD, implies that there was an assumption that the potential Caldwell First Nation reserve would somehow be a problem

for South Kent. A local farmer and CKCN member commented that the SKPD was “concerned about the use of Chatham-Kent’s rich farmland” (Kok-Wright March 4, 1999). Did the creation of the SKPD imply that the Caldwell First Nation would somehow have a negative impact on the land?

SKPD was an important tactical organization. It is one thing to investigate and speak out about the possible establishment of a reserve, but taking action to match bids on property is a clear, pragmatic blockage in the way of the Caldwell First Nation’s ability to purchase land.

Arguments and Further Discourse

“I have no experience with a reserve. I don’t know how it works.” – CKCN Spokesperson
(*BNT* Jan. 20, 1999).

Perspectives on the Proposed Reserve:

From the outset of the CKCN there was a concern about a potential reserve being established. CKCN members talked about residents being “alarmed” at the Caldwell First Nation purchasing property in the Blenheim area (Bendo January 18, 1999), and that the CKCN wanted “to minimize the impact on the local economy and social fabric” of the community if a reserve was to be established (Laurie March 5, 1999).

However, a month after the establishment of the CKCN, the members became convinced that they could not stop a reserve from being established near Blenheim. After

meeting with DIAND Minister Jane Stewart, CKCN members proclaimed of the possible reserve: “We can’t stop it.” (Kok-Wright January 26, 1999). The CKCN still continued to question the possible reserve, wondering how it would be “administered” and what impact it would have on neighbouring farms. (Bendo February 20, 1999). In April of 1999, the *Chatham Daily News* reported that the CKCN wanted the federal government to “put an application for reserve status on two pieces of land on hold until the Caldwell First Nation approves a tentative land claim settlement,” as well as asking that the “time frame for the Caldwell First Nation to assemble the land reduced from 25 to five years” (Kok-Wright April 15, 1999).

A CKCN member talked of the “ramifications of a reserve,” and what would happen if the municipality and community were left to deal with those ramifications (Kok-Wright April 15, 1999). Another member mentioned that the CKCN would have to set up “face-to-face meetings” with Caldwell First Nation Chief Larry Johnson, and that it would “be difficult to build a relationship with the chief, but it has to be done” (Kok-Wright January 26, 1999). One member feared residents could “wake up one morning and discover that everything” they had built was “being challenged” and they no longer controlled their own destiny [. . .]” (Bendo February 20, 1999). This is interesting, because property owners were obviously not forced to sell their land. How could someone “wake up” and not control their own destiny?

In September of 1999 the CKCN changed its official position and decided, because of “their inability to work with the federal government,” the members were “officially opposed to the creation of a Caldwell First Nation reserve in South Kent” (Cornell Sept. 21, 1999). CKCN legal council stated it bluntly by stating a flat no to the

reserve and to the “concept” (Cornell Sept. 21, 1999). The CKCN legal council continued by saying that the government’s decision to allocate funds to the Caldwell First Nation was “arbitrary,” that discussion was “a waste of time,” and that “a reserve would displace the people who settled the area” (Cornell Sept. 21, 1999). How the reserve would displace those who “settled” the area was not really dealt with. And who exactly were those “settlers” that would be displaced?

A CKCN spokesperson voiced concern saying the organization had not been able to “secure practical answers to a wide range of serious questions regarding the various impacts of this proposed land claim settlement and reserve establishment on the existing community,” and that the CKCN had “no choice but to be against the creating of a native reserve south of Blenheim [. . .].” The spokesperson continued by saying that “[w]ith significant social, economic and environmental issues left to address, we are simply taking the next steps required to protect our homes and our businesses (Stirling Jan. 7, 2000).

Another CKCN member expressed concern about a reserve being established near their property. The member noted that there was not a problem with the Caldwell First Nation living as neighbours but that there was a problem “with a reserve concept [. . .]” (*BNT* March 1, 2000). This same member was the primary applicant in an application for a judicial review to the federal court. In that application for a judicial review, this CKCN member outlines his “economic rights as a farmer” as being impacted by the potential reserve (*BNT* March 1, 2000).

In a report issued by DIAND, the CKCN asked the department questions and were provided with answers in regards to the Caldwell First Nation land claim. The

CKCN asked if there were “special terms and conditions associated with the proposed reserve so as to avoid past problems with reserves?” (*INAC 2006e*). It was not specified what these “past problems” were. Also, in this report the CKCN asked of other similar situations where reserves have been set up in existing non-Aboriginal communities. DIAND cited four examples of reserves being established under similar circumstances, all taking place in Saskatchewan.

For example, the Peter Ballantyne Cree Nation, located largely north east of Prince Albert Saskatchewan, negotiated a similar agreement with the Department of Indian Affairs. This was a \$62.4 million settlement that would be used to purchase over 22, 000 acres of land. Also, this agreement had the Peter Ballantyne Cree Nation purchasing land on a “willing seller/willing buyer” basis (PBCN 2008). This was the exact language that was used in the Caldwell First Nation agreement. DIAND made it clear that the Caldwell First Nation would be purchasing land on a “willing seller willing buyer” basis as well (*INAC 2006e*). Also, the Caldwell First Nation negotiated a large sum to purchase a significant amount of land (\$23.4 million to purchase up to 4,500 acres of land), although much less than the Peter Ballantyne Cree Nation. Very similar cases, but the outcome of the Peter Ballantyne agreement is important.

The Peter Ballantyne Cree Nation developed the Peter Ballantyne Developments Limited Partnership (PBDLP) which is a “for profit” investment and development division of the nation (PBCN 2008). Since 1995, 14 businesses have been developed on the nation’s lands including a pharmacy, insurance company, motels, lumber and forest outlets, a sports equipment sales and service centre, and a rice production company (PBCN 2008). This similar agreement (although not in Ontario and functioning under a

different local atmosphere), provides some insight into the positive economic possibilities for the Caldwell First Nation purchasing land and establishing a reserve. Again, there was virtually no response by the CKCN to the similar cases, either in the media or public domain.

The *Chatham Daily News* reported on a Harvard University study by Joseph P Kalt, Kenneth W Grant and other academics published in August of 1999. This was a study “assessing the public policy and market implications” of the agreement between the Caldwell First Nation and the DIAND (Grant August 10, 1999). The media reported that this study argued that a “reserve could boost the Chatham-Kent economy.” The report also spoke to concerns that proper drainage practices would not be followed and argued that land-use studies indicate that land is generally put to its best possible use, and in the case of this farmland it is realistic that the Caldwell First Nation would maintain drainage systems efficiently. The authors also cite successful Aboriginal communities who have managed lands without problems (Cornell Oct. 7, 1999). Although this study was reported in the *Chatham Daily News* it was never addressed in the media by the CKCN. Again, an opportunity for the CKCN to engage with new possibilities surrounding the land claim went undeveloped. Why did the CKCN not engage with this report?

Ambiguity and Misrepresentation:

A local resident wrote a letter to the *Ridgetown Independent* (a small Chatham-Kent newspaper) about the “Not for Sale” signs explained that those people with the signs on their property are not selling their land “to another country,” and that they have a

right “to have neighbours who follow the same laws they do” (Langstaff Apr. 7, 1999). These comments are interesting in relation to when the mayor of Chatham-Kent referred to the potential reserve as “a government unto itself and takes no orders” (Cornell Dec. 15, 1998). Also, a CKCN member stated that “[i]t makes no sense to introduce a fourth level of government into this community” (Stirling Jan. 7, 2000). The *Chatham Daily News* reported that the CKCN legal council stated that there would be “a fourth level of government” with a Caldwell First Nation reserve, and that there “are no rules to follow when dealing with them [reserves],” and it would bring “a greater chance of “conflict” to the community [. . .]”(Cornell Sept. 21, 1999).

These comments were simplistic and misrepresented the possible function of a potential Caldwell First Nation reserve. This may be because residents and CKCN members did not know what role a reserve would play. This may also have demonstrated a lot about the media’s presentation of the issues, and a lack of clear explanation. However, it also reflects the assumptions of the CKCN and local politicians as well.

These assumptions and misrepresentations were not just isolated incidents, as a local farmer feared the reserve would create “a state within a state” and remarked that “[t]hat part of south-Kent has always been under Canada. If this proposed reserve goes through, that part of south-Kent will no longer be under Canadian law [. . .]” (*BNT* Jan. 27, 1999). Similarly, CKCN legal representative stated that the reserve would create a “fourth level of government” that would not “participate with the other three levels” (*BNT* Sept. 22, 1999). Also, a local historical review, posted on the now defunct CKCN website, argued that the reserve would have its own “criminal system” and would be “a separate country within the bounds of our country” (Clendenning March 17, 1999).

Although this discourse was ambiguous and may have obfuscated the potential realities of a reserve, it was directly related to the type of discourse being used around constitutional discussions of the 1990's. The Charlottetown Constitutional Accord recognized "Aboriginal peoples' inherent right to self-govern," (Schouls 22), and further "stated that First Nations governments were to constitute a "third order of government" (Whittington 113). The problem does not lie in the discourse itself (the right to self-govern and the language used to defend it is important to many First Nations). However, when members of the CKCN used the same discourse without substantial discussion of what a Caldwell First Nation reserve would entail, it becomes problematic.

These fears of another level of government are never explained in any significant detail. The interpretation of these comments by the public cannot be assumed, but the effect of leaving the public's interpretation so open is problematic. There is no clear description of the possible function of a potential reserve. This is not necessarily up to the CKCN, but rather DIAND could have played a role here. However, the misrepresentation and oversimplifying of a reserve did not do the public any justice.

A section of a report the CKCN sent to the Minister of DIAND, titled "Ethnic Diversity," discussed the colonial settlement of the land. It highlighted the Scottish, Irish and English and Dutch settlers who came to the area years ago. The focal point of this section was that "many descendants of these early settlers still greatly contribute to the present day farming and business," and "many of these are now 5th and 6th generation farmers." The document continued to note the "struggles of these families" in early settlement times by describing "feats" that settlers had to accomplish such as "attacking six foot trees with their broadaxe blades and saws," in order to "get to the soil on the

forest floor.” The document points to the “hard work, and the determination to “survive” and overcome challenges” that “still prevails in today’s generation” (CKCN Jan. 25, 1999).

The report also stated that “[i]f a reserve was established in this proposed area, some of the following elements of our culture would certainly be extinguished.” It then listed: “Land and Agriculture, Ethnic Diversity, Recreational Activities, The Arts, Everyday Interactions, Architecture and Historical Homes, Religion.” The claim that land and homes might change is certainly possible, but who knows what changes would be made to properties after they are purchased? On the other hand, how would the creation of a reserve extinguish diversity? Would it not improve diversity by the very definition of the word? And how could a reserve possibly extinguish the arts, everyday interactions or religion? These claims are not explained in the document or anywhere else in the public domain.

Disproving Claim:

An article posted on the CKCN website argued that there were “no grounds to provide a reserve based on a claim to the 1790 treaty” and criticized oral history stating that it was subject to “vagaries and errors of memory” and that it could not be considered (CKCN Feb. 6, 1999). Another article concluded by stating that the Caldwell First Nation was not a distinct band in 1790 (when the treaty was signed), that the band had mixed ancestry, and that the Chiefs did not have “achieved rank” and could not have signed treaties (CKCN Oct. 1999).

When DIAND Minister Robert Nault took over for Jane Stewart, he continued to support the decision to work with the agreement-in-principle with the Caldwell First Nation. A CKCN member and communications officer remarked that “regardless of the facts and the growing mountain of opposition and concerns with the claim,” DIAND was moving ahead anyway (McCrinkle Dec. 23, 1999). CKCN members argued that DIAND was lacking evidence that the land claim was legitimate (BNT March 1, 2000), and there was no “historical justification” for it (BNT Jan. 26, 2000). A CKCN member also stated that “[i]f a legitimate claim exists, and that is certainly not for us to determine, then alternative forms of settlement should be considered that reflect the realities of the year 2000 rather than those of the year 1800” (Stirling Jan. 7, 2000).

Maintenance of Agricultural Land:

The CKCN voiced its concern about the maintenance of local farmland with the possible creation of a Caldwell First Nation reserve. This concern about farmland is an important element of the CKCN’s discourse because it reveals some of the problems with the CKCN’s purpose, and the assumptions the organization made about the Caldwell First Nation. A CKCN spokesperson stated that it was not “vast expanses of Crown Land somewhere in northern Canada” that the Caldwell First Nation was purchasing, but rather “valuable agricultural land privately held by generations of non-aboriginal families” with “rights and a reasonable expectation that they will be treated fairly by our federal government [. . .]” (BNT, Jan. 26, 2000). It is interesting that the CKCN spokesperson highlights that the ownership of the land was by “non-aboriginal families.” Apart from

acknowledging some distinction between who is Aboriginal and non-Aboriginal, it implies a link between those who are non-Aboriginal and the agricultural use of land.

A local farmer and CKCN member stated that they [concerned citizens] wanted to ensure the property purchased by the Caldwell First Nation “stays in agriculture” (Kok-Wright Mar. 4, 1999). As well, the *Chatham Daily News* reported that the CKCN wanted to know what assurances the federal government would extend to make sure “[t]he use of the reserve and surrounding land be compatible with the area’s predominantly agriculture-based economy” (Saari Mar. 6, 1999). This language was repeated when the *Blenheim News Tribune* reported that the CKCN was “seeking government guarantees that land use in this area continues to be compatible with agriculture” since “this area has been considered some of the best agricultural land in Canada” (*BNT* Mar. 5, 1999).

As well, a CKCN Spokesperson asked “[i]f somebody’s crop is wiped out, who do you turn to for compensation?” (Saari Mar. 6, 1999). As early as February 1999, members of the CKCN were questioning how a potential reserve would be “administered” and “what impact it would have on neighbouring farm operations such as drainage” (Bendo Feb. 20, 1999). The *Chatham Daily News* reported that farmers have to traditionally work with their neighbours on a number of issues including maintaining proper isolation regulations and developing land rotation agreements,” outlining other concerns about the loss of farmland (Bendo Mar. 6, 1999). And the *Blenheim News Tribune* reported that the CKCN believed “[f]or future success, our farm economy requires the continued cooperation of all neighbours, specifically in areas such as drainage.” (*BNT* Mar. 5, 1999).

The concerns about drainage, isolation regulations, and land rotation were certainly legitimate issues for the maintenance of a farm community. However, in bringing these concerns to the people of Chatham-Kent, many assumptions were made about how the Caldwell First Nation might use the land. Why was the “settled” land at risk with a reserve? This was never explained in any significant detail. Also, how could the government make assurances on land that would be purchased fee-simple on the private market? In response to the CKCN’s concerns, DIAND argued that the Caldwell First Nation would purchase land “on a willing seller, willing buyer basis” and that the “intended use of the land” would be assessed “as part of the additions to reserve process” (*INAC* 2004). Does a purchaser generally not use land as they wish after it is purchased? How would a crop be “wiped out?” How would working with neighbours be a problem with the Caldwell First Nation? Is there an assumption that the Caldwell First Nation would not be a cooperative neighbour?

In a report to the Minister of DIAND issued in January of 1999, the CKCN outlined, more extensively than ever, its concerns about the maintenance of local farmland. It addressed the issue of drainage and stated that if “a reserve is split into several parcel[s] of land, drains will end up flowing in and out of farmer’s [*sic*] properties” which “could become a very unworkable situation [. . .]” (CKCN Jan. 25, 1999). There were also concerns of “property maintenance.” In another document, DIAND addresses drainage and states that because land will be held fee-simple, and since drainage is a municipal concern, the Caldwell First Nation would consult with the municipality to deal with drainage issues (*INAC* 2004). Although this is a downloading of responsibility onto the municipality of Chatham-Kent and the Caldwell First Nation,

responses from the CKCN to this information are virtually not present in the media and public documents.

Also, the integration of farms was highlighted. The document noted that resource sharing between farmers is very important and that any land purchased could split up “partnerships and families” that rely on each other in the farming community. The document continued to argue that the area has “some of the best farmland in Ontario,” highlighted the diversity of crops, and repeated the concerns that integration of partnered and family farms is essential to investing more capital into farm business (CKCN Jan. 25, 1999).

A letter from Mark Richards, the president of the Kent Federation of Agriculture (KFA) and Ron Cox, director of the Ontario Federation of Agriculture (OFA) was published in *Chatham Daily News* on March 8, 1999. This letter stated that members of the CKCN “approached the KFA with their concerns about how this deal would affect their farms and agriculture in general [. . .]” (Cox Mar. 8, 1999). Cox and Richards asked: “Who will protect the neighbouring farm operations? There must be no unreasonable restrictions or impediments to agricultural cropping practices or to livestock operations. If the agreement is implemented who is in charge? Who has jurisdiction with authority to resolve disputes?” (Cox Mar. 8, 1999).

The KFA and OFA’s concerns also dealt with “[m]aintaining proper isolation regulations and developing land rotations agreements,” the possible “disruptive artificial pricing of land values and assessments,” as well as drainage and road maintenance.” This letter was more specific than most media reports concerning concrete agricultural concerns. However, the KFA and OFA, CKCN and (maybe most importantly) the media

all failed to explain in further detail what these concerns really meant to the public at large. What exactly would neighbouring farm operations need to be protected from? What would be the barriers to maintaining isolation regulations and rotations agreements? The people in Chatham-Kent were ultimately left in the dark about the real, concrete justification for raising concern about a potential reserve in South Kent. By not explaining the particulars of these agricultural concerns through the media, the CKCN as civic investigator falls victim to its own criticism of DIAND: it fails to provide people with adequate information.

The KFA and OFA continued by stating that they were “not involved in the debate over whether reserves are a right or wrong approach as compensation for past injustices.” (Cox Mar. 8, 1999). However, the KFA response came after CKCN members met with them, and the *Chatham Daily News* also reported that the KFA and CKCN planned to discuss their concerns with the deputy provincial agricultural minister (Bendo March 6, 1999). The KFA may not have been opposed to a reserve, but they voiced the same concerns and made similar assumptions as the CKCN and worked with them – an organization that was opposed to a reserve being established.

The *Chatham Daily News* reported that Caldwell First Nation Chief Larry Johnson stated that “[a]griculture would continue its prominence in land taken in for the Caldwell Indian Reserve,” as well as some land being “set aside for reforestation [. . .]” (Schmidt Feb. 1, 1999). Also, in a letter sent to Chatham-Kent council, Chief Johnson addressed these concerns again. He stated that the Caldwell First Nation recognized the drainage issues “in low-lying agricultural land,” that “drainage be well maintained” through agreements with the municipal government and in accordance with provincial

legislation, and that land would be used “in a considerate way, so as not to injure our neighbours or their land” (Johnson Jan. 13, 1999). DIAND also stressed that the Caldwell First Nation had its own land use plans and had indicated to DIAND that there were plans to continue farming some of the land as well as infrastructure development. As well, DIAND cited the “Indian Agricultural Program of Ontario” which “provides services to Aboriginal farmers in Ontario” that could be a useful program for farming (*INAC* 2004).

These are important responses to the insecurities toward the loss of farmland by the CKCN and others. Although Chief Johnson’s plans for the land and DIAND responses were reported in the public domain, there was virtually no response from the CKCN, local politicians, or anyone else in the media. If the CKCN was concerned with the maintenance of farmland, drainage and other particulars, why were these responses not addressed to the community at large? It certainly could have been an opportunity for discussion and agreement that the CKCN may have been looking for.

At the Chatham-Kent municipal council planning meeting on December 10, 2001, there was a zoning by-law amendment up for consideration. A 5 acre parcel of land had been purchased and a new Sobeys supermarket was to be built. This land, in the north end of Blenheim (South Kent), just a few kilometres from where the Caldwell First Nation was purchasing land, was zoned as “agricultural.” The recommendation to council was to amend the zoning by-law to make the land “service commercial.” The land was part of a 75 acre farm before it was sold and consent was given to sever the land. With zoning by-law changes there is also a time allotted for public input or concern about the amendment. When the mayor called on the public who had an interest in this amendment, there was no

CKCN presence. There were no concerns about the loss of valuable farmland (C-K Dec. 10, 2001).

Although this was a very small parcel of land in comparison to the potential 4,500 acre parcel the Caldwell First Nation was looking to purchase, it is curious why there was not any concern from the CKCN. Severing a piece of a 75 acre farm could indicate that people were willing to sell their land, which could mean future parcels being sold off. There was no “Not for Sale” campaign and there was no right-of-first-refusal group looking to match any purchases. Even for 5 acres of farmland lost, why was the CKCN not interested in this deal? This raises the question of why the sale of land in the north end of Blenheim, and the establishment of a supermarket, was not an affront to local culture, diversity, and farm practices. The short answer might be that a supermarket is not a reserve. However, the question of why the CKCN might see the reserve as a problem, but not the supermarket, remains to be understood.

Municipal Tax Loss

Both the CKCN and Chatham-Kent municipal council raised concerns about a potential loss of property taxes if a reserve was established (Cornell December 15 1998, CKCN January 25, 1999). From the perspective of the CKCN, Chatham-Kent municipal council, and citizens in Chatham-Kent participating in a liberal-capitalist socio-economic framework, a potential loss of tax base was a legitimate concern and deserves some attention.

In a report that DIAND released in response to questions from the CKCN, it was outlined that the reserve would only be granted if specific requirements were met, and the requirements would be “site specific” and would include “tax loss” (INAC 2006e). This report also specified that discussion and consultation between the Caldwell First Nation and Chatham-Kent municipal council would be appropriate to resolve issues of tax loss before land would be recommended for reserve status. DIAND also offered to facilitate the discussions if necessary (INAC 2006e).

Referring back to the successes of the Peter Ballantyne First Nation and the Harvard study by Kalt and Grant, why did the CKCN not consider the other possible industrial or commercial options that could be negotiated between the Caldwell First Nation and the community? Although the loss of tax base is a legitimate concern for the CKCN and Chatham-Kent, specific options of negotiation and future considerations were not addressed to the public. Was the CKCN not interested in negotiating in order to ensure any losses would be compensated?

The argument of tax base loss does not de-legitimize the disregard for the establishment of the Sobeys supermarket. The absence of the CKCN in the re-zoning of the farmland used in the Sobeys project still exemplifies an important contradiction in the CKCN’s discourse. It still begs the question: was the issue really farmland?

With Sobeys, it was likely viewed as an opportunity for jobs and the establishment a commercial entity that would still contribute to the tax base of Chatham-Kent. However, the CKCN did not discuss the possibilities of negotiating commercial or industrial relationships with a future Caldwell First Nation reserve which might have made up for tax losses. There was no specific discourse regarding future considerations,

nor was there an acknowledgement of DIAND's answers to the CKCN's questions, or to the Harvard study.

Racism and Community

“Well, racism has always been covered up in Canada [. . .]” – Caldwell First Nation member (Rose, 2007).

Nikolas Rose argues that the “relation between community, identity and political subjectivity is exemplified in debates over ‘multi-culturalism’ or the rights of indigenous peoples,” and “the recognition to be accorded to the ‘rights’ and ‘values’ of different communities (Rose 1999: 177-178). In this sense, the CKCN's vision of community and identity in relation to the member's assumptions of the Caldwell First Nation are central to this case study.

As Sherene Razack explains, “[t]he story of the land as shared and as developed by enterprising settlers is manifestly a racial story” that “produces European settlers as the bearers of civilization while simultaneously trapping Aboriginal people in the pre-modern, that is, before civilization has occurred (Razack 2). Razack continues to say that as “more European settlers arrive and the settler colony becomes a nation, a second instalment of the national story begins to be told” (Razack 3). This story of “empty land” is one that focuses on the “hardy and enterprising settlers,” and also the “imagined rugged independence and self-reliance of the European settlers are qualities that are considered to give birth to a greater commitment to liberty and democracy” (Razack 3). She

continues to note that those “national mythologies of white settler societies are deeply specialized stories” that install “Europeans as entitled to the land, a claim that is codified in law” (Razack 3).

In a CKCN report to DIAND, it specifically characterized settlers in the Blenheim area in this way. The “feats” of settlers are described with reference to their “attacking” large trees with “broadaxe blades and saws.” Also, the determination to survive and hard work are highlighted and linked to ancestors still living in the area (CKCN Jan. 25, 1999). The CKCN assumptions on how the Caldwell First Nation would use the land relates to this rugged and determined settler mythology. The fears that “a reserve would displace the people who settled the area” came from this connection to that colonial history (Cornell Sept. 21, 1999).

Philomena Essed writes that “[n]ormative values inherent in Euro-American culture ensure that cultural difference is overemphasized and conceptualized in hierarchical ordering. Culture, in this sense, must not be seen as an entity but as structures of changing meanings [. . .]” (Essed 189).

The non-Aboriginal culture that was described in the CKCN’s discourse conveyed, especially to the Chatham-Kent public, the way members constructed the difference of the Caldwell First Nation. The emphasis on how valuable agricultural land was held by “generations of non-aboriginal families” made a clear distinction and highlights the cultural difference that Essed mentions (*BNT* Jan. 26, 2000). The need to constantly clarify that there were concerns about the possible “ramifications of a reserve” (Kok-Wright Apr. 15, 1999) and the problems with a “reserve concept” (*BNT* Mar. 1, 2000) implied that the current use of land and cultural paradigm – that of the ancestors of

European settlers – is at least more appropriate, which creates a hierarchy. Also, there was an assumption that the Caldwell First Nation might not maintain drainage, and that the agricultural land would somehow be at risk. Not only that, but in the report sent to DIAND, there were claims that the arts, religion, land and agriculture, and ethnic diversity would be extinguished (CKCN Jan. 25, 1999). These assumptions, with virtually no elaboration or basis, assumed that the settlers’ ancestors possessed a sort of objective “right way” of using the land that the Caldwell First Nation did not.

Some argue that racist ideology “organizes, preserves, and perpetuates the power structures in a society” and “creates and preserves a system of dominance based on race [. . .]” (Henry 14). In this sense, the power structure here could be said to be contemporary, individual ownership of private property by the local non-Aboriginal community, and the use of the land by those people for farming. The status-quo of not having a reserve in the area, of a history of colonial “development” of the land, is what the CKCN was advocating.

The CKCN discourse, at first glance, may not seem to seek to maintain a system of dominance based on race. However, the concentration on colonial ancestry and the assumptions about how the Caldwell First Nation would use the land were both approaches that distanced the CKCN from the Caldwell First Nation. This distancing created a form of cultural racism. It created an “us and them” approach to the Caldwell First Nation, and this “tendency to view all peoples and cultures in terms of one’s own cultural standards and values is known as ethnocentrism and plays a central role in racism.” (Henry 49).

Langford and Ponting, in reference to a study on non-Aboriginal views of Aboriginal issues, write that “independent of overt prejudice toward aboriginal people, a general ethnocentric orientation would influence non-aboriginals’ policy preferences on aboriginal issues” (Langford and Ponting 145-146) Members of the CKCN expressed their wish “to change the process of creating and expanding reserves across Canada [. . .]” (Boughner Jan. 11, 1999). This is a case of ethnocentrism because the CKCN members viewed the Caldwell First Nation’s claim in terms of non-Aboriginal “standards and values” (Henry 49). For the CKCN, it was assumed how the Caldwell First Nation would use the land, and it was the “settler” history that defined how the land ought to be used. When a CKCN spokesperson remarked that “the realities of the year 2000” should be considered over “those of the year 1800” in deciding the kind of agreement that should be negotiated, there was ethnocentrism. The problem is that “realities” differ because subjective historical experiences shape them. This was influential in how the CKCN’s discourse shaped their perspective on how land claim processes ought to function.

One of the other strategies of the CKCN was to pry into the inner workings of the Caldwell First Nation. There was political dissention among some Caldwell First Nation members, as in any democracy, and some court cases were filed against the Chief and Council by other Caldwell First Nation members at the time of the agreement-in-principle. CKCN members remarked that they had “concerns over the band’s leadership” and that they believed “any settlement should be fair to all members of the band” (Stirling Jan. 7., 2000). Also, in a question and answer report issued by DIAND, the CKCN asked who was responsible for keeping the Caldwell First Nation voters list up-to-date, and if the CKCN could have a copy of the current band list (*INAC* 2004). These comments and

tactics, whether inadvertent or not, essentially took agency away from Caldwell First Nation members themselves. The Caldwell First Nation people surely knew what was a fair settlement in their own right, and their band list was their own private information. It was surely not the job of a non-Aboriginal civic organization to be a sort of check and balance on the First Nation. In a way it was reminiscent of colonial history and implicitly assumed that the CKCN had some paternalistic “watchdog” status on the inner political dealings of the Caldwell First Nation. Ultimately, the federal court cases that were filed against the Chief and Council were set aside and settled out of court (*FCC 2006*).

David Goldberg argues that “[r]acism is now taken to be expressed increasingly in terms of isolationist national self-image; of cultural differentiation tied to custom, tradition, and heritage [. . .] (Goldberg xiv). To be clear, the CKCN’s expression of concern with the potential Caldwell First Nation reserve and use of land was intricately linked to the local non-Aboriginal heritage and traditions. Goldberg continues to say that:

“[r]acists are those who explicitly or implicitly ascribe racial characteristics of others that they take to differ from their own and those they take to be like them [. . .] These characteristics may be biological or social. The ascriptions do not merely propose racial differences; they assign racial preferences, and they express desired, intended, or actual inclusions or exclusions, entitlements or restrictions” (Goldberg 296).

This is the crux of the racism in the practice and discourse of the CKCN. Having clearly grouped the Caldwell First Nation as the “other” through an ethnocentric lens, the members of the CKCN then assigned characteristics to the Caldwell First Nation. These characteristics were the assumptions of how the land would be used and the functioning of a reserve. It was also the assumptions that a reserve would be a “problem” or “alarming.” The restrictions were that the Caldwell First Nation was not entitled to a

reserve: the CKCN was attempting to restrict the action of the Caldwell First Nation by supporting a moratorium, engaging in federal court cases with DIAND, and participating in the “Not For Sale” and SKPD campaigns.

Goldberg suggests that “[i]n general, the discourse of racism “justifies” the exclusion of others by denying or ignoring their respective claims. It encourages active interference in establishing what the excluded, the disenfranchised, and the restricted are entitled to and can properly expect” (Goldberg 307.) The CKCN was not merely the case of local concerned citizens trying to protect their land; it was a case of an organization attempting to deny that the land claim was legitimate, and an attempt to interfere with the Caldwell First Nation’s entitlements and struggle to reclaim a land base. To be clear, the CKCN questioned the evidence and the “historical justification” for the claim on numerous occasions (*BNT* January 26, 2000). This becomes more than just concern about land when the historical legitimacy of another group of people comes into question.

Civic-Political Partnership?

“Dressed like the government, looked like the government, acted like they were government.” – Caldwell First Nation member commenting on the CKCN (Rose, 2007).

A Caldwell First Nation member argued that the CKCN had the “support of the local Member of Parliament” and “the local MPP” (Rose 2007). The member went further to say that members of the Chatham-Kent Council were members of the CKCN, and that the CKCN was basically “an arm of the government” (Rose 2007). Although I

did not find any claims by Chatham-Kent council members, the MP or MPP that they were CKCN members, there were substantial commonalities in the tactics and discourse of the CKCN and local politicians that raise important questions about the distinction between civic organization and political institutions and actors.

Denial of Racism:

As outlined above, CKCN members made an effort to argue against those who called the organization racist, and deny the issue was “not one of racism” (Bendo February 20, 1999, Johnston January 29, 2000). Similarly, local MP Jerry Pickard also made an effort to state that he had never “been racist or acted in a racist way,” and that the opposition to the land claim was “not an issue of racism” (Johnston January 29, 2000). Also, Chatham-Kent mayor Bill Erickson, commenting on an ad that the Caldwell First Nation placed in the *Chatham Daily News* in a campaign against racism, said the municipality would not be “dragged into foolishness” and that there were “real issues” to be dealt with (Johnston January 29, 2000). There was not only a similarity in denying that racism was at the forefront, but the CKCN and local politicians had a combined effort to make it clear that was not an important issue.

Federal Court Cases:

The *Blenheim News Tribune* reported in January of 2000 that a CKCN member had applied in federal court to challenge the DIAND agreement with the Caldwell First Nation. It continued to report that the application argued that DIAND erred in negotiating

the agreement because it did not address the interest of “existing communities impacted by the terms of that agreement” (*BNT* Jan. 26, 2000).

The actual federal court documents show that this case was an application for a judicial review of the DIAND decision to come to an agreement-in-principle with the Caldwell First Nation. The municipality of Chatham-Kent filed an identical application as well. In fact, in the federal court documents, both the CKCN and Chatham-Kent cases are mentioned and undertaken together because the applications were identical. The *Blenheim News Tribune* reported that the CKCN applicant, along with CKCN legal council and Chatham-Kent’s legal council would be in court together to “challenge” DIAND (*BNT* March 1, 2000). So, the member of the CKCN, acting on behalf of the organization as acknowledged in the *Blenheim News Tribune*, was essentially working directly with Chatham-Kent (*FCC* 2000.). A CKCN member gave full support of the “local municipal government’s challenge to the federal government to provide full disclosure of information that justifies their planned action” (Stirling Jan. 7, 2000).

For a Specific Claim, DIAND works in conjunction the Department of Justice for a legal opinion on DIAND’s legal obligation to a First Nation land claim. Part of the CKCN’s reasoning for engaging in the court case was to see the legal opinion from the Department of Justice, and decide if that legal opinion proved there was a lawful obligation for the claim in order to ensure DIAND acted within its jurisdiction (*BNT* March 1, 2000). The municipality of Chatham-Kent filed a further case in federal court requesting all the legal opinions DIAND received in relation to the Caldwell First Nation land claim. The judge ruled against Chatham-Kent and the case was dismissed (*FCC* 2001). The *Chatham Daily News* reported that both Chatham-Kent and the CKCN were

looking for a judicial review “after unsuccessful attempts to obtain copies of documents and a legal opinion which support the review” (Cornell June 22, 2000).

“Not for Sale” Campaign

It is very interesting that the CKCN and the Chatham-Kent municipal government not only had similar criticisms of the Caldwell First Nation land claim, but they also pursued similar tactics in addressing concerns.

When the Mayor of Chatham-Kent encouraged residents not to sell their land in order to “stymie” the agreement-in-principle, he was essentially endorsing a “Not For Sale” campaign. It was a call to all residents not to sell their land, which is exactly what locals did only a few months later, and was what the CKCN helped organize.

Local MPP’s and Agricultural Land:

Neighbouring MPP (Chatham-Kent riding) Jack Carroll stated that he was not convinced that the proposed agreement had “any relevant merit,” and that it was not good for agriculture or the community (*BNT* Mar. 5, 1999). He argued that the plan to establish a reserve in the “agriculturally rich” area was “misguided and wrong” (*BNT* Mar. 5, 1999). A CKCN spokesperson commented on Carroll’s statements and said that “obviously the Chatham Kent Community Network is pleased with Jack’s public statement” and they agreed “wholeheartedly” with his position (*Laurie* Mar. 5, 1999).

Local MPP Pat Hoy (Kent-Essex riding) urged the Ontario ministers of natural resources and agriculture to “consult with Ottawa and take part in the negotiations.” Hoy said he was concerned about the future of agricultural land and Rondeau Provincial Park” (Cornell Dec. 24, 1998). Hoy also sent a letter to the Minister of Agriculture explaining that the Blenheim area had some of “the best prime farmland” and he wanted “assurances” that the land would “remain in production” (*BNT* Jan. 6, 1999). This concern with agricultural land was the same concern the CKCN had. The *Blenheim News Tribune* reported that the CKCN was “seeking government guarantees that land use in this area continues to be compatible with agriculture (*BNT* Mar. 5, 1999). Both the CKCN and the local Liberal MPP’s were lobbying the government to maintain farmland. It was a similar tactic with similar discourse.

Strategizing:

When CKCN legal council addressed council about the agreement, an *in-camera* meeting was scheduled to discuss “the issue” (C-K Sept. 20, 1999). With the municipality critical of the land claim, the CKCN seemed to be almost pooling resources and strategies. In fact, the *in-camera* meeting that was scheduled was designed to “carefully consider the strategy to be taken” on the issue (C-K Sept. 20, 1999). As well, the *Blenheim News Tribune* reported that the CKCN was liaising “with representatives of the municipality of Chatham-Kent” (*BNT* Sept. 8, 1999).

This demonstrates the strategy of the CKCN. The lines between the civic organization and the forms of governance were blurred. The same tactics (use of the

federal court) and discourse (the maintenance of agricultural land) were used. This, at least, creates a united front on all sides of the local democratic front. Civic, municipal government, and local MPP's were all participating in a similar campaign of challenge and concern against the Caldwell First Nation land claim.

Questioning the Claim and History:

MP Jerry Pickard disputed the Caldwell First Nation land claim and questioned the legitimacy of the historical evidence. He had a staff member review historical documents provided by DIAND and come up with alternate conclusions about the historical legitimacy of the claim. This staff member's conclusions questioned whether Caldwell ancestors constituted a distinct band, whether Chiefs were "old enough" to sign the 1790 treaty, and questioned the weight given to oral history (Cornell and Kok-Wright Feb. 18, 1999).

Comparatively, an article posted on the CKCN website argued that there were "no grounds to provide a reserve based on a claim to the 1790 treaty" and criticized oral history stating that it was subject to "vagaries and errors of memory" and that it could not be considered (CKCN Feb. 6, 1999). Another article concluded by stating that the Caldwell First Nation was not a distinct band in 1790 (when the treaty was signed), that the band had mixed ancestry, and that the Chiefs did not have "achieved rank" and could not have signed treaties (CKCN Oct. 1999).

A CKCN member stated that "historical documentation challenging the basis of the claim and the resulting agreement in principle [. . .] was so condescendingly brushed

aside.” This documentation was a report issued by local MP Jerry Pickard and his staff. The CKCN member argued that the report was “far more thorough” than anything provided by DIAND (Stirling Jan. 7, 2000). Apart from questioning the “historical justification” of the claim, the CKCN was supporting the work of the MP and his staff to do the same thing (*BNT* January 26, 2000).

Moratorium:

In February of 1999 the *Chatham Daily News* reported that a 90 day moratorium had been put on negotiations between DIAND and the Caldwell First Nation. MP Jerry Pickard spoke in favour of the moratorium and stated that “the whole process has stopped” and that “there is an opportunity for change” and possibly to “amend some of the agreement from some of the discussions and input” (Cornell Feb. 11, 1999). A local municipal councillor also spoke in favour of the moratorium and hoped that the situation could be re-evaluated and “perhaps come up with an alternative to a reservation” (Cornell Feb. 11, 1999). CKCN members had also called on the Prime Minister “to impose a six month moratorium on further negotiations” (Boughner Jan. 11, 1999). A 90-day moratorium was eventually imposed by the Minister of DIAND and the CKCN saw this as a possible chance “to be heard and addressed” (Bendo Feb. 20, 1999). Again, these were similar tactics and discourse regarding approaches to halting the agreement to investigate further.

Civil Society, and the CKCN:

The CKCN, as a civic organization, was engaged in a unique political struggle. Although the members were clearly critical of political institutions, namely DIAND, they also rallied behind, strategized with, and relied on the support of representatives of political institutions. This blurs the line between civil society and the state.

The CKCN worked closely with the municipality of Chatham-Kent. Their lawsuits against DIAND were essentially identical according to the federal court, the Mayor was the first person to publicly direct residents not to sell their land, there was mutual *in-camera* strategizing, and CKCN members were publicly supportive of Chatham-Kent's initiatives. There is no public evidence to suggest that councillors or the Mayor were actually members of the CKCN, but the close working of these two organizations together essentially makes them parts of a common front. One could argue that civil society became an extension of the municipal political institutional framework.

Local MP Jerry Pickard had the support of the CKCN and made similar criticisms of the Caldwell First Nation land claim. He was simultaneously a representative of the legislative institution of the state, as well as a participant in civic politics. When DIAND, a department directed by his Liberal party in government, made a decision that he disagreed with, he focused criticism on the department. It plays on the critical decision that many politicians have to make: does one represent the constituents, or tow the party line? Not to mention the support of local MPP's in the area as the provincial representatives, regardless of partisanship and jurisdiction, were using similar discourse with the CKCN.

Antonio Gramsci wrote of “the confusion between civil society and political society.” (Gramsci 263). Although Gramsci’s idea of civil society was large and complex, including the economy, it is an important consideration. Gramsci argued that the state essentially equals political society plus civil society (Gramsci 263). In this way, the hegemony, or the forces of the ruling class, becomes protected by forces of civil society through coercion (Gramsci 263) or consent via “educative pressure” (Gramsci 242). This is not to suggest that the CKCN was coerced by “the ruling class” (whatever and whoever that may be), but it does raise the question of where civil society and political society end, and how they are related.

Gramsci also wrote that “[s]tate organizations” and the “complexes of associations in civil society” make up “the art of politics as if it were the trenches: and the permanent fortifications of the front in the war of position [. . .]” (Gramsci 243). Considering the similar tactics and discourse of the CKCN and the local political representatives, one could argue there was a heavy balance of local power in favour of those two organizations. The “art of politics” in this circumstance gave a substantial position to the critical forces of the CKCN and municipality of Chatham-Kent with a merging of political and civil society. This, in turn, created an unfair advantage for the CKCN and government representatives in their bid to stop the Caldwell First Nation from finalizing the land claim. With the CKCN, MP, MPP’s and municipal councillors all using similar tactics and rhetoric, a Caldwell First Nation member wondered how many people and groups they were up against and if they had any friends to help them (Rose 2007).

Nikolas Rose argues that “the collectivization of risk in the social state is being displaced: individuals, families, firms, organizations, communities are, once again, being urged by politicians and others to take upon themselves the responsibility for the security of their property and their persons, and that of their own families” (Rose 1999: 247). It becomes clear that the CKCN was in the dark on the particulars of the Caldwell First Nation land claim agreement. This is not to say that local non-Aboriginal residents have any right to be privy to those details, but it is interesting that DIAND hardly took a proactive role to educate non-Aboriginal people on the general particulars of Specific Claims policy, apart from one meeting with political officials and the CKCN.

Also, DIAND did not even attempt to help manage any conflicts that were arising. The particulars of the agreement-in-principle are consistent with Rose’s hypothesis. Since the Caldwell First Nation was left to buy land on the open market, the non-Aboriginal community members were forced to take it upon themselves to ensure what they felt was a threat to their property and lifestyle. Without a “collectivization of risk,” or rather federal government intervention to help amend popular conflict, the CKCN took over in the realm of civil society, with problems developing that may have been avoided with more government presence. As well, with more federal government or DIAND intervention or presence, the question of whether the balance of power in the community could have been altered remains to be seen.

Chapter 4: Conclusions and Further Discussion

Although the CKCN began as an organization that expressed a need to investigate and assess the agreement-in-principle between DIAND and the Caldwell First Nation, as well as distribute information to the non-Aboriginal community, it was also determined to thwart the agreement. This was an organization that wanted the non-Aboriginal community involved in the Caldwell First Nation negotiations and wanted to change the process of negotiating land claim agreements altogether.

The CKCN repeatedly stated that DIAND was the main adversary, and that there was no problem with the Caldwell First Nation. However, the organization's tactics and discourse specifically tried to stop the agreement-in-principle from being implemented, and challenged the very heart of the Caldwell First Nation's attempt to have DIAND recognize the historical displacement. The 'Not For Sale' campaign, the right-of-first-refusal group South Kent Property Development Corporation Inc., and attempts to disprove the history of the claim highlighted the fact that the CKCN was anti-reserve. This anti-reserve stance was complicated by discourse in the media which routinely suggested members of the CKCN did not know what to expect in a reserve and that they were acting on ignorance.

The CKCN did have legitimate concerns of tax base loss, drainage for farmland, and DIAND's insufficient participation in easing tense relationships in Blenheim. However, its concern for the maintenance of farmland comes into question when we see that the construction of Sobeys and rezoning of farmland in the north end of Blenheim

was not met with any public resistance from the CKCN. The question of whether farmland was really at the heart of the issue is of utmost importance.

Members of the CKCN made assumptions about how the Caldwell First Nation would use the land that was purchased, and about potential negative impacts a reserve would have in relation to the non-Aboriginal community. This was done without engaging publicly with the evidence suggesting positive possibilities of a reserve being created. This discourse of highlighting and assuming cultural difference through the use of land was the centre of the CKCN's racism and ethnocentrism.

This project is not meant to demonize the CKCN. This is merely a critical questioning of what the motives were for the establishment of the CKCN through an analysis of its tactics and discourses. The accusation of racism is never to be taken lightly, but it is a critical standpoint from which we can learn. The assumptions we make as humans are important indicators of racism and how we view other people. Every person and organization has contradictions and hypocrisies, and these are also important phenomena from which we can learn.

The connection in discourse between the local MP, MPP's and Mayor, Municipal Council and CKCN also bring up questions about the distinction between civil and political society. If local political officials and an organized civic organization are all putting pressure on the Caldwell First Nation, is this a fair struggle? Where was DIAND in this struggle? The relationship between the CKCN and local political officials was close on a number of levels: federal court cases against DIAND, the Not For Sale campaign, the argument of maintaining farmland, the questioning of the Caldwell First

Nation's claim history, rebutting accusations of racism, and strategizing with municipal council even through clandestine *in camera* sessions.

The CKCN was the most organized non-Aboriginal civic organization with public interest in the Caldwell First Nation land dispute. There were other oppositional forces, as well as other forces of support from across the country, but the CKCN had the most coverage in the local press and was at the forefront. The media was central to this opposition and to relaying information to the public, as is any media. A further study of the media's role in this case would be extremely beneficial to understanding how the opposition functioned, how far reaching it was, and what the limits to democracy are in a rural area.

DIAND's inactivity and absence from the scene exacerbated the friction between the CKCN and Caldwell First Nation about the agreement-in-principle. No negotiations and very few discussions were facilitated, and there was a lack of education for the non-Aboriginal public. The CKCN, Municipality of Chatham-Kent and Caldwell First Nation were left to resolve any issues that arose. When DIAND may have been able to ease the tension between communities, the responsibility for working out relationships was downloaded to the communities.

The history of the use of farmland in Ontario deserves some attention in this project. Many sources identify the "paternalistic and arbitrary" application of land grants in Ontario in the late 18th and early 19th century (Lambert and Pross 17). Land distribution favoured Loyalists, military personnel and governing officials, while settlers from overseas faced delays, less distribution of land, and unfavourable conditions (Lambert and Pross 20-21). The distribution of public lands was denounced by William

Lyon Mackenzie as “patronage of the Crown” in 1835 (Lambert and Pross 24), and Lord Durham, in his report on the affairs of British North America in 1839, identified “gross favouritism” to Loyalists, military personnel, clergymen, and officials in the disposal of public lands (Durham 113, 118). Other sources argue that the pre-confederation Department of Agriculture maintained limited contacts with agricultural affairs and was not able to give adequate service to agricultural interest (Hodgetts 227, 229). As well, the many agricultural societies that were organized in the 19th century were “confined to a small clique of well-to-do farmers who least needed the support” and encouragement (Hodgetts 231).

What this suggests is that settlers had a history of struggle to obtain and maintain land since emigrating from Europe. This was a class struggle against the Crown favouring economic elites in land distribution. This historical and material struggle is important because it may hold some clues to why an organization like the CKCN might be so concerned about the maintenance of agricultural land. A study of land management and material insecurities would be a great insight into this possibility.

Although this is largely outside the confines of my study, I include it to demonstrate that although identifying racism and inconsistencies in the CKCN discourse is important, much more work can be done to find a root to this behaviour. This, however, does not excuse the problematic discourse and tactics of the CKCN. The CKCN was trying to stop the Caldwell First Nation land claim from succeeding in its negotiations with DIAND. The question of why the CKCN members spoke and acted as they did is still at hand. This project ventured to focus on a critical analysis of why the CKCN was established, and how the discourse played out.

The Caldwell Chippewa people struggled since the early 1800's to maintain their land. They were eventually forced off the land and this history of struggle is very important to understand why conflict over land or race exists today. The Caldwell First Nation and the agreement-in-principle were up against a powerful opposition of the non-Aboriginal CKCN and the local political officials (federal, provincial and municipal) in Chatham-Kent.

Future developments allow for more detail and perspective, but the time constraints of any project do not allow for the analysis to continue indefinitely. However, some concluding thoughts on the future are relevant. As mentioned above, the Caldwell First Nation held a ratification vote in August of 2003 to approve the agreement-in-principle (AIP). This vote was turned down. However, it was nullified by the federal Minister of Indian Affairs shortly thereafter because of "technical irregularities" (*INAC* 2007), leaving the votes "skewed" with allegations of corruption in the voting process (Shreve 2003).

Also, the *Ministry of Indian and Northern Affairs Canada* (INAC) reported that negotiations with the Caldwell First Nation were reopened and announced to the public in October of 2006 (*INAC* 2007). These negotiations were designed to "update" the agreement and "improve the voting process" (*INAC* 2007).

In early 2007 there was a change in leadership for the Caldwell First Nation. It is well documented in local newspapers and public federal court files that there was a group of Caldwell First Nation members that opposed aspects of the AIP and the former leadership. When the leadership changed in 2007, some of these critics within the

Caldwell First Nation won positions on council (Kok-Wright February 4 1999, *BNT* March 21, 2007)

One CFN member described the AIP as an attempt to “take action” and “seize” the options available because the CFN could not keep the struggle ongoing for hundreds of more years [Rose, 2007b]. However, as of early 2008, there is no reserve and there has been no new ratification vote by the Caldwell First Nation. Those following this struggle might ask who the winners are. However, the more important question is: Will the Caldwell people of Point Pelee soon receive compensation for their loss of land? And if the answer to this question is no, we must ask: Why not?

The Caldwell people and leadership will ultimately decide what is best for their future. History is consistent when it demonstrates that the Caldwell people have been up against pressure from a white, settler society for over 150 years, and the CKCN in many ways was an extension of that colonialism. Its efforts cannot be overlooked as it played an important part in the land dispute, not just attempting to thwart the agreement, but as a pressure group attempting to convince the public of its agenda.

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