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Kapyong and the Indians

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OPINION

Hey there, time traveller!

This article was published **25/02/2011** (5059 days ago), so information in it may no longer be current.

“The First Nations lived up to their end of the bargain. Canada didn’t.” – lawyer Kris Saxberg

A few days ago I sat through the appeal hearing <http://www.winnipegfreepress.com/local/nations-feds-tussle-over-kapyong-land-116719484.html> of a case that feels like it’s going to drag through the courts forever.

The issue?

Whether Manitoba First Nations have dibs on the former Kapyong barracks at Kenaston and Grant.

Here are three scenarios that can happen with the huge site:

1) The Indians can be handed it under their Treaty Land Entitlement.

2) The Indians can buy it at fair market value, develop it and reap the benefits.

3) Ottawa can sell it to the highest bidder.

Simplistic, I know.

Based on what little I heard in court, whatever happens won't be determined until after this case is decided in the Supreme Court.

For some perspective, here's the thoughts of Roseau River First Nation Chief Terry Nelson. Nelson was at the appeal hearing, but didn't stay long:

"I attended the Appeal Court hearing and walked out. I was so angry with the process. It seems that Canada is being rewarded for failing to fulfill their obligations under treaty.

Indigenous people signed Treaty One on August 3rd 1871. The Treaty encompassed all of our 16,700 square miles of land. We allowed the



immigrants access to our lands. For our willingness to share our lands with the immigrants in that treaty, the Crown promised they will put into reservation status 160 acres per family of five. One hundred and forty years later, the Crown is proven to be nothing but liars. A hundred and twenty-five years after the treaty was signed Roseau River Anishinabe First Nation signed a Treaty Land Entitlement (TLE) Agreement with Canada to allow for the fulfilment of the outstanding 5,861 acres of “shortfall” lands, lands that were supposed to be reserve lands in 1871. Overall, up to 16,218 acres of land were to be converted for Roseau River to reserve status under the 1996 TLE agreement. To date, 74.8 acres of those lands have been converted to reserve status since 1996. To get Canada to convert those lands, we had to have a National Day of Action in 2007.

“We signed the TLE agreement even though we had misgivings about trusting the white man again. Fifteen years later the Courts are being asked to disregard the treaty altogether and focus instead on the conditions of the TLE agreements. If what you report is true, the three Appeal Court Judges will reward Canada for being negligent, for failing to keep their



obligations under treaty and for forcing First Nations into TLE agreements. How can the Crown rely on the TLE agreements to defend their actions, they totally breached the TLE agreements. So, how do we enforce the treaties if the courts are not an option for us?

“The white man smiled at us, called us brothers and promised that they will push for the urban reserve at the old Canada Packers Plant on Marion street. We offered a \$100,000 an acre, over two million dollars for twenty acres. We did everything to get the property, jumped through all the hoops. Today, the land grows weeds, Indian Affairs would not approve the environmental licence because ash was found four feet down in 2 acres of the twenty acres we bid on. The city would not allow any extension of time and Attorney General Vic Toews wrote a letter to the Minister of Indian Affairs saying he would not approve any land conversion for Roseau River. So once again, we go through the same thing with Kapyong.

“To appease the rednecks, they tell us to not use the term urban reserves, we should instead call them economic development zones. Unlike other cities, Winnipeg urban reserves are being fought to the bitter end. So now



Winnipeg has bought a helicopter to fight crime, the Youth Center is full, Headingly Jail is full, and Stony Mountain is bursting at the seams with First Nation convicts. The north end is being shot up and violence is being reported every day. No plan, no solutions, just more stalling tactics.

“I vow to ensure that Roseau River will have many urban reserves in Winnipeg. The courts will not save us, they will side with the government. I think that direct action is necessary if the courts are not an option for justice in treaty obligations. In 2007, I promised Minister of Indian Affairs Jim Prentice that I would not use railway blockades for five years to enforce TLE and land claims. That promise I will keep. I will honour my word to Jim Prentice. To date nothing more was converted for Roseau River and by June 2012, my word of honour to Jim Prentice is over. I meet CN and the Enbridge people next week.

“If business people do not want to see blockades, then they should be telling Canada to do what is right, be honourable and take your obligations under treaty seriously. Unlike Peguis, Brokenhead or the other First Nations in Treaty One, Roseau River is in a very strategic location. Two major railway lines pass by us taking millions and



millions of dollars of Canadian exports into the United States and the pipeline that takes millions and millions of barrels of oil into the United States is close by to Roseau River. The major depot for Enbridge is in Gretna Manitoba, sixteen miles from us in Roseau River's exclusive treaty territory.

"If we fail to work with Canada on settlement of the 1903 Surrender and we reach a point where we no longer have any other option, we will shut down the depot in Gretna. Hundreds and maybe thousands of our people are ready to sit on the pipelines. On both sides of the border militant environmentalists want a chance to shut down the pipelines. They just want someone to lead the way. Why is it that after having spent hundreds of thousands of dollars trying to get the courts to force Canada to be honourable, we still wait one hundred forty years later for the white man to honour the most basic condition of treaty, the reservation land quantum. We are still waiting but for how long?

"In 2007, I was called down by people like Shawn Brant for not blocking the railway line like I said I would. I gave Jim Prentice five years to do what is right because I believed him to be an honourable man. I still believe that but



if I am wrong I will definitely know that by June 12th 2012. I was specific with Jim Prentice, no railway blockades for five years. On February 29th 2008, I told Minister of Indian Affairs Chuck Strahl, No 1903 Surrender, No oil. It is now three years since I said that to Chuck Strahl. Oil is now a hundred dollars a barrel, Americans are paying over \$3 a gallon and with the Middle East in flames, gasoline is predicted to go as high as \$9 a gallon. If there is a time to carry out a blockade on Canadian oil pipelines going to the United States, is June 2011 that time?

“What the hell do we have to lose if there is no justice in the courts, no 1903 land claim settlement for Roseau River and no hope. Fire claimed the life of one woman last month and another lies in hospital with burns to most of her body because we can't afford proper housing. We still owe Indian Affairs \$1.2 million for the flood of 1997, no forgiveness there and we face another major flood this year. They stole our best lands in 1903, the best flood proof lands, left us at the mercy of rivers at the mouth of the Roseau and Red. Four hundred and eighteen adults on welfare in our community and 75% unemployment. How long would you wait? The 1903 Settlement provides some hope for our people at Roseau River. They will



be ready for a pipeline blockade by June if they lose hope. Three months away. Another empty threat, a bluff from Chief Nelson? Your call Canada.”

Chief Terrance Nelson

On another note, the Free Press has often reported about housing adjacent to the former base being empty. To fix the record, here’s a note from someone who lives in one of the houses:

“My issue is that the 300 homes on the Southside housing around Kapyong are not empty. I live there I should know. This fiction of 300 empty houses has been perpetuated by the press here in Winnipeg and needs to stop. The houses (a small percentage) that are vacant have been deemed uninhabitable or are in the middle of refurbishment. The PPCLI may have left but the 1 Canadian Air Division an 17 Wing are still very much present in Winnipeg and many live in military housing in both the north adjacent to the airbase and here on the south side adjacent to the Kapyong barracks site.”

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Larry Kusch

Legislature reporter

Larry Kusch didn't know what he wanted to do with his life until he attended a high school newspaper editor's workshop in Regina in the summer of 1969 and listened to a university student speak glowingly about the journalism program at Carleton University in Ottawa.

 [Read full biography](#)

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