

The road to anarchy

Authorities' refusal to enforce the law in Caledonia could mean many more incidents like this in the future

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Patrick Woolley isn't looking forward to the upcoming school year—and not for the same reason so many kids across Canada aren't looking forward to the upcoming school year. The 48-year-old land surveyor lives about a half of a kilometre from where the Six Nations native band has been protesting development on land they claim is theirs in the Ontario town of Caledonia. The barricades that the

natives have erected on the land's periphery to secure their claim have been the flashpoint for violent confrontations over the seven months the illegal occupation has been going on. While many barriers have been taken down, one remains right beside a Catholic elementary school. And Woolley doesn't like it. "I think they're crazy to let those kids go back into that school," Woolley says, and he's trying to do something about it. He's talked to John Tory, the Ontario Opposition leader. He's brought it up with former premier David Petersen, appointed by the province to negotiate the Caledonia dispute. And he's discussed it with the trustees of the school board concerned—pleading with them to consider, if not the welfare of the kids, their own political self-interest. "Everybody believes that someone is going to get killed," Woolley told the councillors. "And if one of the people killed is a child in that school, the Toronto press is going to go after you mercilessly."

None of it has done much good. After an Aug. 17 meeting with parents of the schoolchildren, the Brant Haldimand Norfolk Catholic District School Board elected to build a big wooden fence to

block the kids' view of the barricade, a ragbag of warehouse palettes, and graffiti-covered plywood. The board has also asked the province to put in a berm, and plant some trees to further mask the dangerous situation just 40 yards from the school's front door.

Whether the measures will actually provide any protection from—God forbid—a stray bullet or a carelessly thrown Molotov cocktail remains, naturally, a matter of considerable debate. The Ontario Provincial Police

not buying it. After all, if the gang of 50 or so natives squatting on the 40-hectare strip of land were so harmless, then how to explain the fact that both the cops and government have shown themselves utterly petrified of enforcing court orders demanding the occupiers be removed?

The first order came back in March, when Ontario Justice David Marshall issued an injunction ordering protesters off the site, which developer Henco Industries Ltd. purchased from private sellers in 1992 (Indian lawyers say the



When a court ordered native occupiers off of a construction site, Ontario's government tried avoiding conflict by buying out the developer and asking the court to rescind the order. The court refused, but continues to wait for police to enforce the order and force natives off the land

have assured Caledonians repeatedly that the Indians on the other side of the barricade pose no danger—despite the fact that locals say they've seen natives carrying AK-47s, hunting rifles and machetes, and have heard automatic gunfire coming from native campsites near the barricade. But the people of Caledonia could easily be forgiven for

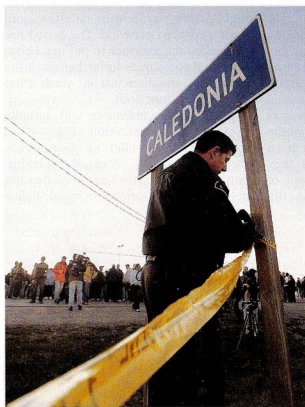
original handover of the land from the Six Nations to the Crown, in 1841, was invalid). The occupiers' refusal to comply was followed by contempt of court charges. In both cases, the Dalton McGuinty government did nothing to uphold the rule of law. In fact, the province tried to get around the court order in June by actually purchasing the

land from the developer for \$12.3 million, then claiming the judge's orders were no longer necessary. Marshall ruled on Aug. 8 that it didn't matter whether the developer was no longer involved, the court order would stand and all further negotiations with the Six Nations would cease until the province and the OPP enforced the rule of law. "To let those charges go by the board and not deal with them in accordance with the law and the principles of fundamental justice would defile this court and resign those who depend on the courts to the road to anarchy," Marshall wrote. The judge also made it clear that the government must respect the court's power. Authorities, he wrote, "must not use their discretion to oust the rightful jurisdiction of the court or to defeat the court's orders."

McGuinty initially said the province would "abide by any decision made by the judge," but his government has instead appealed Marshall's ruling. Ontario's patent timidity has led many to conclude that McGuinty is willing to sacrifice Canada's laws for the sake of political expediency. The Liberal government is surely terrified of provoking another violent standoff with native militants, like the one at Ipperwash Provincial Park faced by the previous Conservative government in 1995, which resulted in the shooting of one Ojibwa, and was made into political hay by the then Liberal Opposition for years. And there's always the spectre of the bloody 1989 Mohawk standoff at Oka, in which a police officer was killed and many others hospitalized. Already things in Caledonia have gotten ugly: in April, the OPP attempted a raid on the Henco property, arresting 16 people, but were driven off by militants, who began setting fires, sabotaging nearby electrical utilities, cutting power to thousands of Caledonians, and blocking highways in protest. A few days later, a protest by Caledonia residents culminated in a minor brawl with Six Nations occupiers. Some reporters approaching the blockades have been assaulted and threatened by Indian patrols.

The province isn't the only one with a sense of foreboding. Peter Russell, a political scientist at the University of Toronto, says that while Marshall is a friend of 25 years, he thinks the court's insistence on forcing the situation is a bad idea. For one thing, Russell sympathizes

with the Six Nations' scofflaws, believing that occupation is the only "bit of leverage" that natives have when it comes to pressing land claims issues. But more than that, he says that people are bound to get hurt if the court order is upheld. "For what end?" Russell asks. "Does it make anybody feel better? It will make David [Marshall] feel better."



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Still, police couldn't hesitate to raid biker clubhouses or crack dens to enforce the law, even if resistance was a possible, even likely, outcome. Oftentimes, it's the very existence of a threat that makes enforcement so vital. "The assumption is, and I agree with the assumption, that the [occupying] natives are automatically going to be violent," says Gary McHale, a Toronto-area computer programmer, whose caledoniawakeupcall.com website has been critical of the OPP and the Ontario government. "If you are going to accept that as the premise from which you're working, then I would say that

society should be protected from any violent group."

In August, McHale made a point of contacting various detachments of the OPP, including the commissioner's office, to press the police on their reluctance to enforce the law. "I can tell you there is a fundamental fear in the OPP that there will be bloodshed if they go in and make arrests," he reports. "And every time I hear that I say to the officer, 'Are you telling me that the OPP will go in with guns blazing?' And of course the answer is no." The obvious question then is who do these officers think will start firing first? "When you ask the question that way, there is dead silence on the phone because the only answer is, the natives will shoot first. So you realize you are dealing with a violent group. And it is unacceptable to say that the reason we don't enforce the law is because we are dealing with a group that is so violent that people will die," says McHale.

But that, say critics such as McHale, is the message that the province and law enforcement agencies are telegraphing: natives or other groups with grievances can flout the law, as

long as they're prepared to back up their rebellion with the threat of violence. In Caledonia, says Woolley, the widespread perception is that there are two separate legal systems—one for natives and one for everyone else. "So now people walk around saying, 'If I get a parking ticket, I'm not paying it,' or 'If I get pulled over, I'm not going to pay the ticket. Why should I?'" Woolley says. Judicial activism may be a bugbear for Canadians elsewhere, but in Caledonia, it doesn't seem to matter one bit what the courts say—not as long as you've got enough guns, anyway. ■