Bridging the Divide between Aboriginal Peoples and the Canadian State
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Centre for Research and Information on Canada (CRIC)  
2000 McGill College Avenue  
Suite 250  
Montréal (Québec) H3A 3H3  
1-800-363-0963  
Fax: (514) 843-4590  
www.ccu-cuc.ca  

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Preface

Canada — a country stretching across an entire continent with coasts on three oceans — is a tremendous achievement resulting from a unique combination of political vision, economic ambition and cultural imagination. But that achievement has come at a heavy price for the people who lived here for thousands of years before the arrival of the first Europeans. By the mid-nineteenth century, the initial period of treaty-based friendship between Aboriginal and European peoples had been replaced by a more adversarial relationship, caused in no small part by the dispossession of Aboriginal peoples from their lands and the disruption of their cultures.

Confederation united Canada, but sowed the seeds of deep division between its original inhabitants and the newcomers. It is this legacy — a legacy that is part of our contemporary reality, not just our history — that we must overcome as current generations of Canadians work to strengthen the unity of the country and its peoples.

The nature of the challenge is only too well-known. Most Canadians feel proud of the top ranking that the country receives in the United Nations' index on human development, but as the Governor General has noted, the benefits of development are not shared among Aboriginal and non-Aboriginal Canadians. The National Chief of the Assembly of First Nations has drawn attention to the crisis in health care within Aboriginal communities. Aboriginal rights relating to land, resources and self-government are disputed, subject to lengthy and costly court challenges and political negotiations. Another challenge is that of preserving Aboriginal languages. Statistics Canada reports that only 3 of the 50 Aboriginal languages spoken in Canada can be considered secure.

BRIDGING THE GAP

These and other issues create divisions between Aboriginal and non-Aboriginal peoples in Canada that are difficult to bridge. Progress requires a commitment to change, imagination and a willingness to talk to one another.

This second CRIC Paper anticipates the celebration this summer of the Great Peace of 1701 signed in Montreal by the representatives of New France and the many Aboriginal nations in the region. It reflects CRIC's mandate to inform Canadians about the challenges facing their country and to encourage them to discuss ways to move forward together.

This paper deals with the arguments put forward by Alan Cairns in his influential book on the relationship between Aboriginal peoples and the Canadian state, entitled Citizens Plus. The debate that follows highlights both the importance of building a sense of a shared community, and the need for concrete changes in the way political power is exercised in Canada. The paper also considers what is emerging as one of the most controversial policy initiatives in Canada: the promise made by the government of British Columbia to hold a referendum on the treaty process. Again, this paper's objective is to better inform Canadians by promoting constructive debate.

As Alan Cairns writes in his book, "If we talk, we might all learn." The different peoples of Canada have much to learn, not only about each other, but from each other. It is notable that the Aboriginal peoples were not only the first self-governing peoples in what is now Canada, but also the first to practice a form of federalism. Their experiences of building associations that combine a desire for unity with a need to recognize and respect differences are instructive for a contemporary Canada striving to reach the same goals.

CRIC gratefully acknowledges the advice provided by Alan Kary, and thanks all the authors who contributed their work to this paper.
Introduction: “What Will Hold us Together?”

“What will hold us together?”
This is the question Alan Cairns poses in his book, *Citizens Plus.* Cairns is concerned that recent efforts by Aboriginal scholars, leaders and activists to redefine the relationship between Aboriginal peoples and the Canadian state have not taken to heart the task of ensuring that Aboriginal peoples, together with other Canadians, share a sense of belonging to a common community. For Cairns, the enforceable obligations that stem from treaties, the constitution and the rulings of the courts are no substitute for the feelings of empathy that bind together people who see one another as fellow citizens. The goal, he argues, is coexistence, but such coexistence must include some element of common belonging and allegiance to a single polity by Aboriginal and non-Aboriginal peoples if it is to flourish” (28).

Most Canadians may not find this view very radical. What is provocative is that Cairns makes his case in the context of a lengthy and detailed criticism of much of the current thinking of Aboriginal political leaders, scholars and activists. In truth, Cairns takes aim at two opposing camps. On the one hand, he rejects outright the claims of those he calls the “assimilationists” — those who argue that Aboriginal peoples should have a status equal to that of other Canadians and who would end arrangements or laws that treat Aboriginal peoples differently.

A REJECTION OF PARALLELISM
On the other hand, he rejects what he calls the “parallelism” of Aboriginal nationalists (as voiced, for instance, in the report of the Royal Commission on Aboriginal Peoples): the idea that Aboriginal peoples form nations that exist alongside the Canadian nation, and that Aboriginal peoples should relate to Canada on a nation-to-nation basis, as outsiders rather than as Canadian citizens. Between these two schools of thought, Cairns seeks some middle ground. But he treats the case against the assimilationists as more or less self-evident and devotes the book to constructing an argument against parallelism. His goal is not to question the legitimacy of Aboriginal rights or self-government (he supports both), but to challenge the way in which the aspirations of Aboriginal peoples have been pursued in the absence of an emphasis on an underlying and unifying “common Canadianism” (93).

Cairns raises four key points to establish his position that Aboriginal peoples themselves have an interest in developing a sense of shared citizenship with other Canadians.

INTERDEPENDENCE
First, independence is not a realistic option. Cairns observes that Aboriginal and non-Aboriginal peoples are “locked in an inescapable interdependence” (210). No matter how advanced a form of self-government Aboriginal communities may obtain, they will always remain a part of Canada.

Second, he warns that if Aboriginal and non-Aboriginal people view each other as strangers rather than fellow citizens, they will become indifferent to each other. But this indifference would be much more costly to Aboriginal peoples who (even after self-government)
still would have to rely on services and transfers funded by Canadian taxpayers. “The need for a flow of resources from the Canadian people, through governments, to Aboriginal nations is more likely to be met if they are seen to belong to the Canadian community, for which citizenship is the obvious symbol” (199).

Third, Cairns stresses that Aboriginal peoples, like all Canadians, have multiple identities and attachments. Accordingly, he argues that the belief that Aboriginal persons relate to the Canadian state as members of Aboriginal nations separate from Canada, rather than as citizens of Canada, fails to do justice to the complexity of “Aboriginality” (101). He insists that Aboriginal peoples should be encouraged to see the federal and provincial governments, not as non-Aboriginal counterparts to their own governments, but as legitimate (though not the only) governments of their own communities in which they can participate fully as voters, candidates, and parliamentarians.

**URBAN DWELLERS SHUT OUT**

Fourth, Cairns contends that the prevalent rhetoric of Aboriginal politics — which focuses on self-government and the nation-to-nation relationship — automatically shunts aside Aboriginal people living in urban areas (about half the Aboriginal population). According to Cairns, urban Aboriginal people do not feel as rooted in specific Aboriginal nations. And the benefits to be gained from Aboriginal self-government in urban areas are more limited than those available to self-governing Aboriginal nations. Urban Aboriginal people are thus marginalized by the nation-to-nation paradigm and would be much better served by a focus on the rights of citizenship — or on the notion of what Cairns calls “citizens plus” (143, 168).

“One of our essential tasks,” Cairns argues, “is to foster a sense of common belonging to a single political community, as well as the recognition of difference.”

Cairns urges Aboriginal nationalists and their many academic and other supporters to change course. “One of our essential tasks,” he argues, “is to foster a sense of common belonging to a single political community, as well as the recognition of difference” (80). Accordingly, he advances the notion of “citizens plus.” This term was coined in the 1960s by a federal government inquiry led by H.B. Hawthorn into the situation of Indian peoples in Canada. Cairns served as a senior researcher to the inquiry. The advantage of a term such as “citizens plus” is that, in the same breath, it draws attention both to the inclusion of Aboriginal peoples, as citizens, in the Canadian community and to their unique position in Canada as indigenous peoples who possess additional rights. In Cairns’ view, the concept of “citizens plus” recognizes Aboriginal “difference” while emphasizing simultaneously that a sustainable relationship between Aboriginal and non-Aboriginal peoples must be underpinned by a common citizenship. In Cairns’ words, “neither our togetherness nor our separateness can be escaped from” (9).

**SLOGANS NOT ENOUGH**

Of course, a label or slogan cannot by itself solve intractable policy differences. But Cairns insists that words and symbols do matter; the right language can draw us together, while a poor choice of words can push us apart.
The decision to pass over “citizens plus” in favour of more divisive alternatives (the assimilationist notion of the absolute equality of citizens on the one hand, or parallelism on the other) is seen by Cairns as a missed opportunity — a “wrong turn in the road” (9).

**A VIEW THAT COMMANDS ATTENTION**

Cairns’ reflections, coming as they do from one of Canada’s most eminent political scientists who has examined the country’s constitutional foundations over several decades, command attention. His desire to find a middle ground in the debate about Canada’s relationship with Aboriginal peoples, together with his focus on combining a respect for difference with an appeal for unity based on a shared citizenship, will resonate with many Canadians. But is he right? In his book, Cairns states that his main goal is to contribute to a constructive public policy debate. It is in this spirit that we present the following collection of opinions on his book.

**Bob Rae** agrees with Cairns about the need to pay more attention to the urban dimension of the issue. But he questions Cairns’ focus on the short-comings of Aboriginal leaders and scholars. If there is someone to blame for the rocky relationship between Aboriginal peoples and the Canadian state, it is perhaps not the Aboriginal nationalists, but Canadian governments and their electorates.

**Patricia Monture-Angus** is precisely the type of Aboriginal scholar who Cairns believes has gone too far down the road of parallelism. The subtitle of her book, *Journeying Forward* is “dreaming First Nations’ independence.” Not surprisingly, then, Cairns comes under tough criticism. She sees the term “citizens plus” as a retreat from the standing that Aboriginal people now enjoy by virtue of the rights guaranteed by the 1982 constitution. Moreover, she calls Cairns to account for implying that the root of the current crisis in the relationship between Aboriginal peoples and the Canadian state lies with the Aboriginal peoples themselves and with the extent of their aspirations.

**Kathy Brock** highlights the strengths of Cairns’ book, including his willingness to ask tough questions. But she argues that the notion of “citizens plus,” on the one hand, and the “nation-to-nation” relationship, on the other, may not be as irreconcilable as Cairns suggests.

These commentaries are followed by an edited transcript of a discussion that took place among the authors in Quebec City in May 2001.

As a whole, the viewpoints collected here not only contribute to our understanding of the issue at hand, but also testify to the fact that no matter how wide the gap between the different parties in a debate, the possibility still exists for a dialogue that enriches all who care to speak and listen with good will.
Citizens Plus: A Review

They say that the apple never falls too far from the tree. In his introduction to this important and thought-provoking book, Alan Cairns reminds us that after writing his thesis at Oxford in the 1950's, he came back to Canada, and soon started work as a researcher and adviser to a senior committee advising the federal government on its own colonial inheritance.

That committee's report — the 1966 Hawthorn Report on Indians in Canada — summarized its approach as "citizens plus": The Canadian government's relationship with Aboriginal people could never be the same as the one it had with other citizens, nor could Aboriginal people escape the political reality that they were part of the Canadian community.

The argument in Cairns' book is that Hawthorn had it right, and that this approach has to be reaffirmed. The twin excesses of assimilation and Aboriginal sovereignty have to be rejected. The history of the last forty years has been made more confused and difficult. Cairns argues, because the logic of the compromise of "citizens plus" has been too often ignored by all sides.

Cairns' book has many fine qualities, and they should be praised from the outset. First of all, it is well written, and clearly argued. He takes us through the imperialism and racism of our nineteenth century past to the simplistic ideology of the Chrétien/Trudea white paper issued in 1969.* He is artful in finding the right quote or the telling example to make a complex story intelligible. His writing is sparse and thankfully devoid of the obscurantist rhetoric that inflates so many academic tomes these days. He is equally clear on the experiences of the post-patriation saga of negotiations, court cases, and commissions under whose shadow Aboriginal politics now finds itself. Together with his fellow political scientist Peter Russell, Cairns has the ability to illuminate and to teach in an area that is fraught with confusion, rhetoric, emotion, and social scientific tedium.

Cairns' book is also infused with a sense of the practical, and that is commendable as well. His criticisms of some of the rhetoric of self-government are trenchant. His grasp of the dynamic of the growth of the Aboriginal population outside reserve lands forces us all to reflect on whether an agenda that is immersed in past grievance and the dream of territory is really adequate to deal with what will be, in good part, an intensely urban problem for the rest of the twenty-first century. Cairns is surely right when he asserts that there has to be a realignment of policy to address these issues, and that no one is really well served when the political rhetoric is more about sovereignty than it is about poverty, education and housing. In that sense, for all its great strengths, the Royal Commission on Aboriginal Peoples missed an opportunity to re-focus the attention of Canadian policy makers on the future.

SOME POINTS OF DIFFERENCE

Despite its many virtues, there are some difficulties with Cairns' approach. I speak, no doubt, somewhat personally, since I was very much involved with the drafting of the Charlottetown Accord, a document that received tough scrutiny in Citizens Plus. I have also had recent experience with a difficult mediation at Burnt Church, New Brunswick, and continue to have a deep interest in this part of our national life. Charlottetown has had more than its fair share of critics, so let me offer more than a couple of words in its defence.

* Editor's note: In 1969, the Trudeau government (in which JeanChrétien served as Minister of Indian affairs) issued a white paper in which it was argued that Indians were being held back by their separate status in Canadian society, and would benefit from full citizenship, equal in every way to the rest held by other Canadians. The government accordingly proposed to repeal the Indian Act and put an "equitable end" to the treaties. The white paper was vociferously and successfully resisted by Indian organizations. They saw it as an attempt to eliminate Indians as distinct peoples, recognized by law, within Canada.
The constitutional landscape had been slowly transformed in the 1970's, first with the complete rejection of the assimilationist assumptions of Mr. Trudeau and the white paper, then with the 1973 Calder decision* and most importantly, with the clause on Aboriginal rights inserted in the 1982 constitution at the insistence of the New Democratic Party, in the drive to patriation.

Yet these modest advances were hardly an adequate response to the need to address the depth of the historic grievance of Aboriginal people. The efforts at further constitutional reform were blocked in the 1980's. Elijah Harper's feather was a reminder that this came with a price. The collapse of the Meech Lake Accord meant that any further effort at constitutional reform had to accommodate Aboriginal concerns — hence Charlottetown, and the insistence of a number of governments, including Ontario's, that both the process and the result had to be more inclusive.

The process certainly was, and while some have complained about the messiness and confusion of so many voices and so many people at the table, the fact remains that this is what modern Confederation is all about. The alternative had been tried with Meech and found wanting.

**What Might Have Been**

The result was equally challenging, and there is no denying that the Aboriginal self-government provisions of the Charlottetown Accord would have brought with it a change in the political order. The Accord spoke of a new "order of government" and insisted that self-government negotiations with Aboriginal peoples had to be conducted in the context of a generous interpretation of their treaty rights.

"... the failure of provincial and federal governments to engage in serious discussions is not because of the "wooliness" of the concept of self-government. There is something far more problematic going on, and while Cairns talks around the problem he does not address it as centrally as it needs to be addressed."
Canadians voted down the Charlottetown Accord. Yet it should be understood that Charlottetown was simply an entrenchment of an approach to the Canadian constitution which was being widely adopted by the courts, and so its implications are still very much with us. Cairns is wrong to interpret Charlottetown as a radical departure — a jump towards a more radical rhetoric about Aboriginal sovereignty — and wrong to suggest that the lack of a precise definition of "self-government" was a fatal flaw in those discussions ten years ago. Self-government negotiations cannot be centrally prescribed, because their meaning and conclusion will depend so much on time and circumstance. What works for the Yukon will not work for Ontario or Quebec. But the failure of provincial and federal governments to engage in serious discussions about these issues is not because of the "wooliness" of the concept of self-government. There is something far more problematic going on, and while Cairns talks around the problem he does not address it as centrally as it needs to be addressed.

The strength of Cairns' argument is that he understands that wise public policy will require two things: a recognition by provincial and federal governments that the question of the rights and status of Aboriginal people is still unresolved and urgently needs to be addressed, and at the same time an acceptance by the Aboriginal leadership of the need to engage their fellow citizens and governments on a practical basis. Which of these two is more absent at the present juncture is open to debate. My own sense is that there are still too many in government unwilling to address what must be done, and that Cairns spends too much time analysing and criticising the academic and political literature on Aboriginal sovereignty. But at least he has had the courage to insist on a debate, and a debate there must be.

* Editor's note: for an example of relevant public opinion data, see CRCIC's Portraits of Canada 2000, at www.cciuc.org.
Citizens Plus: Sensitivities versus Solutions

Last year the Canadian Human Rights Commission drew attention to the social and economic disparities that impact on the lives of Aboriginal peoples in Canada. It concluded:

Canada’s failure to ensure a full measure of social and economic equality for its citizens is troubling. The commitment to achieve equality is far more than a matter of kindly benevolence. It is a question of building a society in which all Canadians can enjoy the fundamental dignity and respect that are at the root of human rights both in Canada and internationally.¹

The social and economic disparities singled out by the Commission must be understood to reflect an unequal distribution not only of resources but of power;² be it social, economic or political. It is this reality in the relations between Canada and Aboriginal nations that must stand at the forefront of any attempt at redress or remedy.

This reminds me of something that one of my many grandmothers would say to me: the first step in the journey we take to “fix” something is understanding more precisely just what the problem is. This is the standard to which I held Alan Cairns’ book, Citizens Plus. In keeping with the style he adopts, I will also write personally and directly.³

LOCATING “THE PROBLEM”
Reading Citizens Plus, the first thing I struggled with was the way the “problem” is located. Cairns’ presents a one-sided dialogue about what he, (admittedly) a white male Canadian who values Canada and his status as citizen, thinks the solution to the “Indian problem” is.⁴ This frankly, makes me angry.⁵

To share the sentiments and thought of a Native Studies scholar, Kiera Ladner:

Several years ago, I began reading in the area of nationalism… The more I read, the more frustrated I became. I was angry because... [the] literature dismisses the possibility that nationalism existed outside Europe prior to the Enlightenment… This despite the fact that there is abundant evidence demonstrating that not only did Indigenous peoples in North America have democracy, nationalisms, individualism, liberty, rights and freedoms, but that these political traditions wielded an enormous influence over the western Eurocentric tradition.⁶

The contributions of First Nations⁷ to North American society have been minimized,⁸ and often times made completely invisible as both a necessity and pre-condition of colonialism. The resultant stereotypes and the failure to take account of First Nations’ contributions perpetually reinforce Euro-American perceptions of superiority.⁹ This is one of the acknowledgments that must precede the articulation of what is so often presented as the “Indian problem.”

As I understand it, correcting the common misunderstanding of the historical record was one of the Royal Commission on Aboriginal People’s goals and a significant focus of its report. In other words, First Nations were to be respectfully written back into the history of Canada. By itself, however, correcting the historic record is not enough to ensure fundamental change. There is a parallel process that requires Euro-Americans to let go of the assumptions that surround the inferiorization of First Nations and the denigration of our contributions. This form of analysis and recognition is absent from Cairns’ analysis. In my view, Euro-Canadian scholars
and politicians must stop addressing what we First Nations must do and address what they (and Canada) must do. This step, missing in Cairns’ analysis, only serves to contribute to First Nations’ frustration and anger.

“...Euro-Canadian scholars and politicians must stop addressing what we First Nations must do and address what they (and Canada) must do.”

THE GUSWENTAH
There are a number of examples of this difficulty in Cairns’ work. For me, as a Mohawk person, the most troubling is his rejection of the Two Row Wampum* and its symbolism of parallelism. This is not only troubling to me from a cultural standpoint, but it is also troubling because his understanding of the Two Row (in my language, the Guswentah10), as presented in the book, is simplistic.11 Early in the text, Cairns brushes away the Two Row as unsustainable:

Neither a return to the goal of obliterating difference of the 1969 federal government white paper, nor the two-row wampum vision of separate societies on separate paths heading to separate destinations, which casts a blind eye to the interconnectedness, has much useful advice to offer. Both visions ignore significant realities (9).

This is offensive. First, it is offensive in the way the 1969 white paper (which if realized by the Canadian government would have fully ended the relationship of Indians as Indians with Canada) is juxtaposed to the Guswentah as if they were but opposite sides of the same coin. Second, it is offensive in the lack of understanding of at least my peoples and of the Guswentah as either treaty or symbol of parallelism. Nowhere does Cairns explain how a treaty — both a sacred agreement and an agreement protected by Canadian constitutional law — can be so easily set aside. Because Cairns fundamentally mischaracterizes the agreement made with my peoples, he misses the detail that could help us all better appreciate the concepts that must be at the foundation of the relationship between First Nations and Canadians.12

“Nowhere does Cairns explain how a treaty — both a sacred agreement and an agreement protected by Canadian constitutional law — can be so easily set aside.”

Drawing on my community-based understanding, I recognize that the symbolism of the Two Row Wampum extends beyond the simple image of two separate paths. These two paths are always separated by three beads and those three beads represent “friendship, good minds, and everlasting peace.”13 Only through consideration of these concepts can the notion of parallelism be understood. Based

* Editor’s note: The Guswentah or Two Row Wampum belt represents an agreement between Europeans and the Aboriginal peoples. It is made with a background of white beads with two parallel bands of purple beads running from one end of the belt to the other. The white background represents a river, and the two rows of purple represent two vessels travelling down that river — one occupied by each of the two peoples (European and Aboriginal). According to the agreement represented by the wampum, the river is big enough for both vessels to travel, but each should steer a straight course and not attempt to interfere with the other. The agreement thus represents a relationship of peaceful coexistence based on mutual respect for each other’s way of life.
on his narrow understanding of the parallelism reflected in the Guswentah, Cairns concludes that our destinations are seen by First Nations as different. A fuller consideration of the concept shows that the destination does not have to be different, only the path to the destination.

CITIZENSHIP AND “CITIZENS PLUS”

Cairns sets out to define the basis of a new relationship between Aboriginal peoples and the Canadian state. What Cairns and others do not acknowledge is the fact that this relationship has already been defined, it is just not lived. We find the definition in the many agreements made by our ancestors. But particularly for my people, the Haudenosaunee, this relationship cannot be characterized as “citizenship.” The fundamental problem with Cairns’ position regarding citizenship is that, in his work, he pits citizenship against Aboriginal and treaty rights. Citizenship as a defining concept of Canadian nationhood must be remembered as one shaped outside of First Nations’ governance practices and cannot be assumed to have universal application and respect.

Cairns’ solution would have us also take a step back into history to the days of “citizens plus.” He credits the Hawthorn Report with this phrase and notes that it was picked up by First Nations in their rebuff of the 1969 white paper. However, Cairns fails to grapple with this term in its entirety and within the context of the times. “Citizens plus” is a rhetoric which arose because of the denial of basic rights to “registered Indians.” It was picked up by First Nations as a defensive and reactive response to an externally imposed challenge issued by the Trudeau government in the 1969 white paper. These conditions no longer exist. Aboriginal peoples now enjoy constitutionally protected rights and have since 1982. A renewed “citizens plus” rhetoric does not easily fit into the legal dialogue that has emerged over the past 20 years. These constitutional recognitions and affirmations identify a fundamental shift in the political relationship between Canada and First Nations, a shift that would have been unimaginable in 1969, at least for the majority of Canadian politicians. There is significant potential for the “citizens plus” rhetoric to fundamentally denigrate these constitutional affirmations and recognitions. The idea of returning to a defensive, reactive and rhetorical position, such as “citizens plus,” must be rejected.

AN ARTIFICIAL DIVIDE

One of the recurring themes, if not preoccupations, of the book is a concern for urban Aboriginal people. I agree that there is a legitimate need to consider the inclusion of urban residents who are equally citizens of First Nations. But the politics of exclusion, although sometimes now embraced by First Nations, must be attributed accurately to its source. Otherwise, it is the familiar strategy of blaming the victim. The difficulty lies with the territorial confines of the “Indian reserve” and the framework for governance provided by the Indian Act. It is this federal statute that secured the on-reserve focus and the off-reserve exclusion. It is this rigid line around the reserve that is the problem, and not the people on the other side of the line. Present day Indian reserves, unfortunately, do not reflect the treaty understandings of Indian territory.
On any Indian reserve (so-called), it is generally only the very old or the very young who have never resided off reserve. For an “Indian,” the experience of the reserve versus the city is much more fluid.

Cairns’ characterization of the urban vs. reserve dichotomy is also simply inaccurate. On any Indian reserve (so-called), it is generally only the very old or the very young who have never resided off-reserve. For an “Indian,” the experience of the reserve versus the city is much more fluid. This further highlights why the rigid line around the reserve (and how it metes out “rights”) is an ongoing source of frustration for First Nations. The saddest part of this story is that we, as First Nations, have on occasion allowed this rigid line to separate us from our relatives. This is an example of the degree to which our colonization has been internalized and of how our complicity in our own oppression continues to multiply.

As I indicated, I agree with Cairns that there is a profound need to include urban residents, permanent or temporary, in our creation of a new relationship with Canada. But I disagree fully with the idea that the result of urban residency is that one’s “Indian-ness” is diminished and the degree to which one feels connected to a First Nation community becomes insignificant and insufficient. It is challenging to find ways to include urban Aboriginal people, but just because a task is difficult does not mean one should stop trying or agree to settle for less in one’s life than what one can dream. Further, in my mind it is unconscionable to consider that an externally created division (reserve vs. urban) should now be held out as a justification for determining unilaterally that the First Nations thinking (and memory) on this topic is unreasonable and unsustainable.

THE NEED FOR CHANGE

I agree fully that there is a gap in the debate about First Nations-Canadian relations. However, I fail to see how or why this problem requires only the First Nations to change or to be a little more “reasonable.” This, in fact, perpetuates colonialism, a term Cairns’ takes issue with in favour of imperialism. Early on in the book, Cairns argues that the solution to the type of imperialism that took hold in India, the Congo, Indonesia and Algeria—namely freedom from the rule of the empire of the British, Belgians, Dutch or French—is not possible in Canada (largely because of the small population numbers of First Nations) (26). For this reason, First Nations’ aspirations for independence should be set aside in favour of less lofty goals. In other words, his solution depends on First Nations being willing to accept less than their ancestors bargained for. Not only does it not address the problem, it perpetuates the status quo, perhaps simply because the problem is perceived as too difficult to solve.
"...I fail to see how or why this problem requires only the First Nations to change or to be a little more "reasonable"..."

What is required for change? Canadians must stop asking First Nations to change our understanding(s) of the world, our place(s) in it, or our knowledge(s) about history and particularly to change our understanding(s) of the treaties. Treaties are sacred agreements made between your ancestors and mine. I am simply unwilling to "cross the sacred." I have also taught my children the same boundary.

My understanding of these treaties (including the Guswentah) has been informed by ceremonies, by listening to the Elders and traditional people, by accepting some of their responsibilities as they have been passed on to me and through academic study. These sacred agreements, although present in a variety of forms, shape my understanding of what co-existence, parallelism or partnership mean. The answer is not illusive nor is it difficult. What is missing is the will to change the exclusionary power relations upon which the country we now understand as Canada was built. This does not mean that First Nations need to change, rather it means that Canada needs to learn how to do things differently. Apparently, some Canadians, including Cairns, do not want to learn how to do things differently. This is why First Nations are forced into activist politics or to engage in the academic practices that Cairns regrets.

The book is useful as it provided me, a citizen of the Haudenosaunee Confederacy, with a better understanding of where "white" people are coming from. The book explains some of the reasons why I am still waiting for change. While I am waiting, I will continue to work for and with First Nations at the family and community level. We have much work to do distancing ourselves from the devastation of colonialism.
SENSITIVITIES VERSUS SOLUTIONS


2 The Royal Commission on Aboriginal Peoples notes: "The rebalancing of political and economic power between Aboriginal nations and other Canadian governments represents the core of hundreds of recommendations contained in this report." See page 2 of Volume 5 of the Commission's final report (Ottawa: Minister of Supply and Services, 1996).

3 I also note that it is difficult for me to distance myself fully from the academic form. The footnotes that appear here provide some references for those who wish to read further. They also surround me with the knowledge of the community of First Nations scholars upon whom I rely to make "safe" the crazy academic world in which I live.

4 In his book, there is no analysis (as opposed to acknowledgment) of privilege, particularly the privilege of being white, male and a citizen. This failure of non-Aboriginal people has negative consequences that ripple forward and profoundly impact on First Nations. The failure to stand up to the responsibility of privilege means that I am only able to write from a place of resistance. Understanding the source of my frustration, I make no apologies for the hard lines which I am often forced to draw.

5 For First Nations, anger is not necessarily a negative emotion. It is a "normal" response to colonialism and should be expected. See the discussion in Patricia Monture-Angus, Thunder In My Soul: A Mohawk Woman Speaks (Halifax: Fernwood Publishing, 1995), 2-4.


7 I am not interested in speaking for all Aboriginal Peoples and this paper is intended to significantly address the experience and understanding of First Nations.


SENSITIVITIES VERSUS SOLUTIONS

11 See Cairns, Citizens Plus, pages 5, 7, 9, 71, 73, 92, 95, 115, 158, 166, 203, 204, 206.

12 As it has been told to me (this is the "Indian" way of noting shared knowledge), the reading of the Guswentah is a four day ceremony. I do not carry this teaching and my understanding, although more complex than what Cairns' portrays, is simplistic and incomplete.

13 I am grateful to and acknowledge the late Jacob Thomas for his work in this area which also appears in written form (see his publication: "The Friendship Treaty Belt and the Two Row Wampum Treaty," which was compiled for his library on November 13, 1978. A copy is on file with the author). As the English translation of Mohawk words will never be exact, the way we understand these concepts must be flexible and broad. I have also heard the treaty's image of "three beads" described as representing friendship, trust or respect or honesty, and kindness. For a fuller discussion, see Monture-Angus, Journeying, 37-39.


16 Others often refer to these individuals as "status" Indians. However, I have great difficulty thinking of people in the terms of whether they have "status," and particularly in the case of those who do not. In addition, registration is a more accurate term.

17 I do not dispute that for "urban Indians" the same conclusion is not necessarily true. However, much of off-reserve residency has been shaped by government laws and policies. Therefore, I believe the disconnection from the territory is one of the areas where redress (and even compensation) is required.

18 I have heard in my many travels from conference to conference, classroom to classroom, that Cairns' work is important as it offers a more progressive solution than that offered by some other scholars in the area (Tom Flanagan immediately comes to mind). Cairns is, in fact, more gracious and nudges up against First Nations' knowledges and understandings. However this does not persuade me that his argument must be accepted. At least, it must be de-coded before it is embraced. In my opinion, it is built on an ideology that suggests First Nations should be grateful for something — a little sympathy or a little land.

19 This phrase is commonly understood among First Nations.
"Citizens plus"
first entered my consciousness in the 1980s during my doctoral work on the constitutional fit of Aboriginal self-government with the Canadian political system. The concept, first advanced by the Hawthorn Commission in the 1960s and later repeated in the Red Paper of the Chiefs of Alberta, offered a sensible alternative to the assimilationist white paper of 1969. "Citizens plus" promised to reach across the divide between Canadian and First Nation societies (although even then it appeared to require renovation to include more than the municipal-style governments envisioned by the Hawthorn Commission). And so, when reading Citizens Plus, I was intrigued to see whether Alan Cairns would retrieve an old debate to build a new understanding of Canadian citizenship. He offers a new vision that invites serious reflection.

Four strengths of the argument in Citizens Plus quickly emerge. First, the generosity of the vision is immediately apparent. Cairns is attempting to build an understanding of the whole. As he suggests (205), land claims agreements and self-government arrangements need to complement Canadian citizenship, not rival it. In the idea of "citizens plus," he attempts to find a common base of citizenship and a sense of mutual responsibility between Aboriginal and non-Aboriginal Canadians. In so doing, he takes into account the diverse situations of First Nations and Métis, "Status" and "Non-Status" Indians, and members of First Nations living on and off reserves. This formula recognizes the need to accommodate the multiple identities existing within Canadian society and within Aboriginal communities, and the complexity of the multiple relationships among individuals.

This is the second great strength of the book. By attempting to define this common ground among such different individuals and communities, and by emphasizing the duty of federal, provincial and territorial governments to represent both Aboriginal and non-Aboriginal Canadians alike, he takes to heart the admonishment of the former Chief Justice of the Supreme Court of Canada, who urged Aboriginal and non-Aboriginal political leaders to find a means of living together with the words: "Let us face it, we are all here to stay." 3

AN INCISIVE CRITIQUE
Third, Cairns offers an incisive critique of the Report of the Royal Commission on Aboriginal Peoples. He quite appropriately applauds the Commission's monumental undertaking and its findings, but notes the lack of a coherent and inclusive constitutional vision underlying its recommendations. The Report fails to articulate the basis for a mutual sense of responsibility of Aboriginal and non-Aboriginal Canadians, and it fails to serve the interests of all Aboriginal peoples (116-160, esp. 154-8, 159-60). This omission is attributable in part to the structure of the Commission and the complexity of its work, but it does complicate implementation of the recommendations, and leaves wanting a basis for reconciliation of Aboriginal and non-Aboriginal traditions, institutions and values.

In making this criticism, Cairns demonstrates a fourth strength; he asks the tough questions that are necessary for good governance, despite the sensitivities of these issues. He courageously identifies the dangers in the "nation-to-nation" language of Aboriginal aspirations, as well as the neglect of Aboriginal peoples without a land base. In addition to noting the disconnect between Aboriginal and non-Aboriginal Canadians
caused by such language, he also realizes the raised expectations this language engenders for communities that might be too small to sustain these dreams (75, 185-86).

A PARTING OF THE WAYS

Cairns and I depart on two points. First, in the Cairns' postulation, "citizens plus" speaks to a common citizenship while the language of "nation-to-nation" or "sovereignty" addresses the separateness of the Aboriginal community from the broader Canadian community. Conceived this way, the two visions of Aboriginality within Canada aim at opposing and irreconcilable goals. But I wonder if this necessarily has to be? These two visions may be complementary, together offering a more satisfying means of understanding the place of Aboriginal peoples within the Canadian polity. The language of social capital can be modified to explain this compatibility.³

BUILDING CONFIDENCE AND IDENTITY

The idea of the Two Row Wampum, or the discourse of Aboriginal sovereignty and nationhood, may be thought of as forms of "bonding" social capital. Insular, inward-looking and exclusive, bonding organizations may be thought of as a "super glue" in society since they offer crucial social, psychological and material support for homogenous groups of individuals. Through association with others who are "like," and in this case being governed by ethnic regimes or identifying with nations, individuals build their sense of identity, self-esteem and self-worth. This is positive insofar as it prepares disempowered or marginalized people to participate in the broader community, where their differences may be challenged, discounted or berated. Bonding provides these groups with the confidence to define their identity to the broader community, and then to demand accommodation of their differences. It is negative only if it isolates communities and breaks down cononosity, causing groups to react against each other.

To balance the exclusive tendencies of bonding, a means of bridging groups is required. "Bridging" social capital is the "WD-40" of societies. These organizations forge connections between disparate groups and reach across social divides to include individuals of various backgrounds and identities. They build a sense of the whole, and a common purpose, creating a reciprocal sense of good will. The idea of citizens plus, parliaments and legislatures representing both non-Aboriginal and Aboriginal Canadians, and the many cooperative programs for housing, social welfare, health, and education identified by the Royal Commission, are all forms of bridging social capital that help build a healthy society.

"...it is the responsibility of Aboriginal peoples to build their own sense of identity and communicate that difference to the broader society. However, it is the responsibility of the Canadian community to accommodate and respect that difference by
creating the opportunities and environment for Aboriginal peoples to participate fully in the larger society and economy.”

RESPONSIBILITY
Thus, it is the responsibility of Aboriginal peoples to build their own sense of identity and communicate that difference to the broader society. However, it is the responsibility of the Canadian community to accommodate and respect that difference by creating the opportunities and environment for Aboriginal peoples to participate fully in the larger society and economy. The key is that accepting difference means changing institutions to welcome the formerly disempowered and marginalized.

My second point of departure from Cairns is this: while a strength of Cairns’ work is his recognition of differences within the Aboriginal community, it might be asked if he overemphasizes the interdependence of Aboriginal and non-Aboriginal communities, and the existence of the urban First Nation population. Many individuals living off-reserve retain strong ties with their communities and may return or refer to traditional practices to regain a sense of self when discouraged by events outside. The flow between urban and First Nation communities is often circular, rather than unidirectional. As First Nation communities enhance economic opportunities this trend should increase. Moreover, the establishment of urban reserves in western Canada bridges this divide.

In *Citizens Plus*, Alan Cairns boldly offers a new vision for the future of Canadian citizenship by delving into the past to resurrect a concept that provided common ground to Aboriginal and non-Aboriginal Canadians. His vision holds the potential to bridge our differences, providing that mutual respect remains the basis of accommodation.


2 His understanding of the complexity of perspectives and voices within the Aboriginal community is captured not only at the societal level but also in his discussions of organizations and scholarship (71-77; 175-88).


4 Social capital refers to the connections and social networks among individuals in a community. It captures the norms of reciprocity and trustworthiness that hold communities together. The following definitions of bonding and bridging social capital are drawn from Putnam, but are recast to fit the First Nation experience. See Robert Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon and Schuster, 2000), 19-24.

Discussion: Alan Cairns, Patricia Monture-Angus and Kathy Brock

In May 2001, at the annual general meeting of the Canadian Political Science Association in Quebec City, CRIC hosted a panel discussion of Alan Cairns’ book, Citizens Plus. The featured speakers were Alan Cairns, Patricia Monture-Angus and Kathy Brock. Here is an edited version of some of their remarks.

Alan Cairns began by replying to the assessment of his book offered by Patricia Monture-Angus.

Alan Cairns:
“One of the difficulties of bringing Patricia’s argument and my argument into a common discourse is that we’re not asking the same question... Her approach is really: how are we to live apart?...

“My position, then, is that it is incredibly important whether we have a way of thinking about our common existence in this country that says: yes, in one of our dimensions of being, we are part of one another, we do share, we are responsible for each other... It matters: it is almost the fundamental question of what (to my maybe old-fashioned perspective) a country is all about...

“And my second point is: I don’t think that the Two Row Wampum or treaty federalism provides an answer. I don’t think it can answer what I view as a terribly important question. So I reject it as constituting the “be all and end all” of how we are to relate to each other.”

Patricia Monture-Angus then replied to Cairns’ comments.

Patricia Monture-Angus:
“I’m really suspicious of this word “solidarity.” And to frame the question around solidarity makes me ask (because I’m aware of the history of colonialism): what has solidarity got to offer to me? When I read your book and hear your position, I understand what solidarity offers a sense of Canadian unity. But my fear is that you’re asking to build something on our backs again, because it makes you feel comfortable, or it makes Canadians feel comfortable.

“I think that one of the significant issues that we have to deal with is the issue of the lack of trust between First Nations and the state. For me the issue is clearly the lack of political will on the part of Canada to really want to change to address these issues. So for me, the only thing that I can do is wait...
"...So I'm not even sure about the questions you're asking — citizenship versus treaty. I would like you to spell out absolutely clearly, for me as a Haudenosaunee person: what does citizenship in Canada offer me, that's going to guarantee to me my identity, guarantee to me respect, and more importantly allow me to fulfill the responsibility that I have as Haudenosaunee to the next seven generations so that I know that they will have place, identity and respect?"

The discussion was then opened up, and questions were taken from the audience. One questioner wondered whether part of the problem is that "citizenship" has a strong assimilative meaning to it. He then asked Alan Cairns whether it is possible to change the meaning of citizenship in Canada so that it can fit within the treaty relationship with Aboriginal peoples. He commented that Cairns' book had little to say about how to adapt citizenship to make it more legitimate from the Aboriginal viewpoint. Cairns replied first, followed by Kathy Brock:

**Alan Cairns:**

"When I talk of "citizens plus," I'm talking about what, in other contexts, people identify as "differentiated citizenship" — that is, there will be a common overlay but people will partake of that citizenship from different perspectives. So Aboriginal peoples will not be the same kind of citizens as non-Aboriginals. They will carry a citizenship label but they will also carry whatever has been developed in treaties, and so on.

"You ask whether a treaty regime is compatible with a citizenship regime — my answer to that is categorically "yes." The "plus" [in "citizens plus"] is the vehicle within which we can work out these particular relationships...

"...How do we get there? We're a long way from getting there. I guess you get there by a long course of doing things that will gradually increase trust. Because Patricia is correct... We have to gradually, incrementally, by a process of good doing, by a process of coming to terms with the past, generate enough of a conception that we belong to a "we community," that we can do enough things together while simultaneously addressing our diversity..."

**Kathy Brock:**

"I would challenge the assumption that citizenship has to be assimilating. I don't think it has to be. Citizenship can be assimilationist, if people are being forced to conform to one model. But I think we can now start to bridge out and look at citizenship as a much more encompassing idea by accepting difference within it, asking communities to define that difference for themselves, and then to bring that to the larger community. That's a transformation [in meaning].

"What example would I use of that occurring? Look at Nunavut. Nunavut is actually doing that. It is taking parliamentary government and merging it with traditions within the Inuit community, and within the First Nations community. And I think that is a powerful form of change..."
DISCUSSION

“As well, when you see people from the First Nations engaging in shared programs of housing and taking control of housing — and I say “shared programs” because they’re having an impact on the municipalities around them, and there is more and more exchange going on ... then there is a transformation in the government occurring...That creates a legitimacy of institutions that First Nations then may feel more comfortable engaging with in the future. And that's when you also have the concept of citizenship embracing difference.”

Another questioner argued that, contrary to what Cairns believes, the existing treaties do provide an answer to the question of what brings us together. The treaties already define the basis for a relationship of peace and friendship between Aboriginal and non-Aboriginal peoples. This comment prompted the following exchange between Cairns and Monture-Angus. Cairns began by insisting that the Royal Commission on Aboriginal Peoples’ vision of the treaty relationship is a vision of a multi-national country that ignores the need for a sense of togetherness or “commonality” between the members of the separate nations.

**Alan Cairns:**

“There is no message in the Royal Commission that in some larger sense we are to be communicating and practicing some sort of cooperative citizenship... that's lacking from some 3,500 pages [of its report].”

**Patricia Monture-Angus:**

“Alan, you speak to commonality, and you speak to cooperation. I'm wondering how those get to be the defining ideas. That word "commonality" to me sounds like a kind of melting pot...that the goal is that we should be pushed together...What about values like respect? Isn't that required to have this idea of cooperation? Don't we have to start from there?”

**Alan Cairns:**

“I assume that one function of a citizenship regime is to induce respect for everybody else who is a citizen. And those who are not regarded as citizens are much less likely to get respect, and that can get very dangerous... Citizenship is the source of respect, it is the source of compassion, it is the source of sharing.”

In the exchange, Alan Cairns and Kathy Brock also returned to the issue of the urban Aboriginal population.

**Alan Cairns:**

“My basic plea is: 50 percent of the Aboriginal population should not just get five percent of the attention of the academics and of the policy makers. The lawyers are not interested in urban Aboriginal population because it can't be discussed in terms of the rights of nations. So this population gets left out.”

**Kathy Brock:**

“When we're thinking about the First Nations population and the urban issue, bear in mind that by 2015 the on reserve population is going to be as large as the on and off reserve population was ten years ago. That's a significant figure, and so I think that's why we need the two visions [both "nation-to-nation" and "citizens plus"].”
A Case in Point: The Proposed British Columbia Referendum on Aboriginal Treaties

Peter H. Russell

REFERENDUM COULD DAMAGE PEACE, ORDER AND GOOD GOVERNMENT

A British Columbia referendum on treaties with Aboriginal peoples could be a democratic way of confirming the province’s commitment to at last comply with long-established Canadian practice and law. The practice, which Canada took over from Britain, is one of recognizing indigenous societies as peoples or nations whose relations with the state are to be structured according to mutually agreed treaty arrangements. The law is the common law recognition of Aboriginal rights, which along with treaty rights, are now entrenched in the constitution. But there is a danger that the referendum now being discussed will result in a suspension of the BC treaty process and a re-affirmation of British Columbia’s unlawful denial of Aboriginal rights. Nothing could be more damaging to the peace, order and good government of the province.

From the time British Columbia joined Confederation until the 1990s, its governments refused to recognize the Aboriginal title of indigenous peoples to the lands and waters they continued to occupy. BC governments also refused to follow the process set out in the 1763 Royal Proclamation of acquiring land for new settlement by making treaties with its indigenous owners. Even after the Supreme Court of Canada recognized the Nisga’a people’s title to their traditional lands in the Nass Valley in the 1973 Calder case, and the federal government established a modern treaty process for negotiating land claims with Aboriginal peoples on unceded traditional lands, BC’s governments continued the policy of non-participation.

A NEW APPROACH

It was not until 1990 that Bill Vander Zalm’s Social Credit Government changed the province’s approach. Following the report of a provincial task force, a BC Treaty Process was established in 1993 to provide a system through which the federal and provincial governments could negotiate agreements on land and self-government with the province’s First Nations. At present, 51 of British Columbia’s First Nations are at various stages of the BC Treaty Process, and the Nisga’a Agreement, on which negotiations began before the process was established, has been ratified and is now the law of the land.

“...there is a danger that the referendum now being discussed will result in a suspension of the BC treaty-process and a re-affirmation of British Columbia’s unlawful denial of Aboriginal rights. Nothing could be more damaging to the peace, order and good government of the province.”
A province-wide referendum that sought popular endorsement of the provincial government’s commitment to participate honourably and prudently in the BC Treaty Process would increase the legitimacy of that process. But the referendum that is mooted in the media seems to have a different objective — to severely restrict the provincial government’s negotiating freedom. Premier Gordon Campbell is quoted as saying that among other things, the people will be asked whether Aboriginal communities should possess “only municipal powers.” There are also suggestions that the province be restricted to recognizing a fixed land quantum regardless of the legitimacy of historic claims.

A referendum that ties the provincial government’s hands would be tantamount to closing down the BC Treaty Process. No Aboriginal people would agree that its inherent right to self-government is equivalent to that of a municipality created by and subject to unilateral extinction by the provincial legislature. Nor will Aboriginal peoples see any point in negotiating with a government that has decided in advance on the scope of the land rights that it will recognize. In such a situation, the federal government is unlikely to overcome its reluctance to negotiate treaties unilaterally. The BC Treaty Process will grind to a halt.

Stopping the BC Treaty Process will not, however, induce the province’s Aboriginal peoples to surrender their lands and self-government rights. In the past, British Columbia’s denial of their rights did not stop them from asserting those rights. It is even less likely to have that effect now that Aboriginal peoples are led by a new generation of determined and politically sophisticated leaders, and are fortified by recent court decisions recognizing constitutionally protected rights to land, resources and self-government. They also have the support of international opinion that expects Canada to move forward in respecting the rights of indigenous peoples. In the absence of a forum in which BC’s Aboriginal peoples can negotiate agreements, they will have no choice but to attempt to move forward on their own.

It is hard to imagine that a break-down in efforts to reconcile Aboriginal rights with the interests of the non-native majority through consensual agreements can do anything but economic, social and political harm. It is to be hoped that as Premier, Gordon Campbell will use a referendum to advance British Columbia’s overcoming its lawless past in Aboriginal affairs.

**Gordon Gibson**

**REFERENDUM COULD BUILD PUBLIC SUPPORT**

A referendum on the British Columbia treaty process could increase the legitimacy and the support that this process has in the eyes of the public. It would respond to the need to achieve a popular mandate for treaties that are, in effect, a part of our constitution. A referendum campaign would result in a public much more informed on the issues. This would be an important achievement, as one reason why trust in the process has eroded is the failure of previous governments to be honest with the public. Far from creating discord, a referendum could promote reconciliation by allowing BC voters, for the very first time, to play their part and endorse the process.
Those who worry about a referendum on the BC treaty process nonetheless raise important points which must be answered:

• No referendum is required to obtain a so-called “mandate” to negotiate treaties. Governments do important things all the time without putting them to referendum.
• A majority vote on minority rights is wrong in principle.
• By revealing potential cleavages in the public on this emotional issue, a referendum could make the situation worse rather than better.

The first two points are really “scarecrows” — fearsome looking things raised to frighten, but lacking any substance on close inspection. The last point is where the meat lies.

First, the scarecrows:

Modern Indian treaties are in fact constitutional documents. This has been the case ever since Pierre Trudeau’s Section 35 was inserted into constitution in 1982. The Nisga’a Treaty is clearly a document protected by, and embedded in, the constitution.

“...in a moral sense there is simply no question: the establishment of constitutionally protected third orders of government is an enormously important move, and ought to have popular assent.”

Constitutions belong to the people. Moreover, British Columbia has an explicit law requiring the Legislature to consult the people before considering any amendment to the constitution of Canada. Many consider that, under this legislation, the Nisga’a Treaty, or at least the “template” or model that it created, ought to have been put to the people. The jury is still out on the legal issue, but in a moral sense there is simply no question: the establishment of constitutionally protected third orders of government is an enormously important move, and ought to have popular assent.

Moreover, the resolution of this file requires an enormous amount of money and governments just won’t write many big cheques for a cause that taxpayers oppose.

INDIAN RIGHTS UNAFFECTED
On the second point, the referendum could not possibly affect the “minority rights” of Indians, any more than a referendum could affect freedom of speech or assembly. Indian rights, like freedom of speech, are guaranteed by the constitution and enforced by the courts.

But if a referendum scheme cannot in any way truncate minority rights, there is still a need for voluntarism and reconciliation. Without these things, rights provide only half a life. Anyone who has tried to live in a hostile community knows this.

In that context, a good return question to those who oppose a referendum is: “What are you afraid of?” Is the inarticulate major premise that British Columbians are racist rednecks who want to put down the Indian people? I reject that. But let me add, if it were true, the referendum question would be the least of our worries.
The only important issue is whether a referendum would make the situation better or worse. Let us, therefore, first look at the incentives of those with the power to hold a referendum, namely Premier Campbell and the BC Legislature.

Their overarching incentive is to achieve a solution, not to score political points. You can't do much better than 77 out of 79 seats in the House. And there are only two ways to achieve a solution in a contested situation. One is by utterly crushing the other side, which can't happen here. The other is by agreement. The overall incentive of the BC government is to reach agreement. Why would they then craft a referendum that would make that more difficult? It runs against common sense.

Next, consider how a referendum might improve the situation. If it elicited an expression of support for the reconciliation and negotiation process in principle, it would be a great step forward from the illegitimate status that the process bears in the minds of a majority of British Columbians.

If it increased an understanding that the cost of a solution, in lands and dollars, will be very considerable, that would be progress. Governments have been hiding this truth most deceitfully.

If it increased public understanding of the reality of the strong legal position of Indians, that would be good.

**OTTAWA SHOULD PAY**

If it reinforced the view that this problem has been caused overwhelmingly by the federal government, and that Ottawa ought to pay the bill for fixing it, that would be good. The current cost-sharing formula is not fair to BC.

How might a referendum be bad? It would be bad if it sought to tie the hands of negotiators on any matters, except those of great principle. In my view, the great principles that need affirmation are that settlements should be full and final, and that they should work in favour of the political equality of all Canadians in the long run, except where our constitution provides otherwise.

This does not mean a referendum question on whether Indian governments should have constitutionalized so-called "Third Order" status or delegated (e.g. municipal) status. The new government of BC believes that delegated status is the way to go, and that was made very clear during the recent election campaign. No further mandate is required on that. But the other side must be free to argue for deeply held views. In the end, the courts will probably resolve the issue.

A referendum would be bad if it turned ugly and racist. I think I know my fellow British Columbians well enough to say that anyone playing that game would be rejected overwhelmingly. No society in this country has accommodated more peacefully to the enormous diversity brought about by a level of immigration quite incomprehensible to most of the country. We have proven our fair-mindedness.

Obviously, the referendum questions will be key. They must leave full dignity and scope for bargaining on fundamental issues intact for both sides of the table. With that stricture and those above, a referendum should help settle an issue that has been most troubling to this province.
Kathy L. Brock is an Associate Professor and Head of the Public Policy and Third Sector Concentration in the School of Policy Studies at Queen's University. Her research interests include Canadian government and politics and the constitution. She has published numerous articles on Aboriginal self-government and rights in books and journals, including “Building a New Partnership: Aboriginal Self-Government in Canada” for the South African Human Sciences Research Council. The Rights of Indigenous People: A Quest for Coexistence. She wrote the study of relations between the Manitoba state and Aboriginal peoples for the Royal Commission on Aboriginal Peoples. She has served as an advisor on Aboriginal affairs to the Minister of Aboriginal Affairs and Northern Development (Manitoba) and to the former Grand Chief of the Assembly of Manitoba Chiefs.

Gordon Gibson is a Senior Fellow in Canadian Studies at the Fraser Institute. His fields of study include governance, federalism and Aboriginal issues.

Patricia Monture-Angus is a Professor in the Department of Native Studies at the University of Saskatchewan. She is author of a wide variety of articles and books, including Thunder in My Soul (1995) and Journeying Forward: Dreaming First Nations Independence (1999) — both published by Fernwood Publishing. Journeying was named “Book of the Year” in the 2000 Saskatchewan Book Awards. Trisha is a Mohawk woman originally from the Six Nations Territory near Brantford, Ontario. Currently, she resides on the Thunderchild First Nation (Cree). She has been involved in politics and activism, advocating for the rights of Aboriginal prisoners and Aboriginal women. She has advised the Assembly of First Nations, the Native Women’s Association of Canada, and the Federation of Saskatchewan Indian Nations on various matters over the years. She recently was appointed special assistant to the Dean of the College of Arts and Science at the University of Saskatchewan, with a mandate to pursue Aboriginal training and research initiatives.

Alan Cairns is a Visiting Professor of Political Science at the University of Waterloo. He was a member of the Department of Political Science at the University of British Columbia from 1960 until his retirement in 1995. He is the author and editor of numerous books and articles on federalism, the constitution, the Charter of Rights and Freedoms, and Aboriginal issues. His book, Citizens Plus: Aboriginal Peoples and the Canadian State, was published by UBC Press in 2000 and was runner-up for the 2000 Donner Book Prize. He is a Fellow of the Royal Society of Canada and an Officer of the Order of Canada.
Bob Rae is a partner at the Goodmans law firm. He has extensive experience in negotiation, mediation and arbitration, and consults widely on issues of public policy. Mr. Rae served as Ontario's 21st Premier, and was elected eight times to federal and provincial legislatures before his retirement from politics in 1996. He was appointed to Her Majesty's Privy Council for Canada in 1998 and was appointed an Officer of the Order of Canada in 2001. He is the Ontario president of the Council for Canadian Unity. His books From Protest to Power and The Three Questions have been published by Penguin Viking of Canada.

Peter H. Russell is a Professor Emeritus of Political Science at the University of Toronto. He has written extensively on constitutional, judicial and Aboriginal politics in Canada and in a comparative context.

Andrew Parkin is Assistant Director of CRIC – Research.