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AMERICAN
WHAT CANADIANS
THINK THEY KNOW
ABOUT THE UNITED STATES
MYTHS

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KEY PORTER  BOOKS

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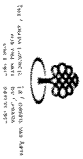
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ACROSS THE MEDICINE LINE

BY TOM FLANAGAN

“The experience of all the dead generations weighs
like a nightmare on the brain of the living.”

—Karl Marx, *The Eighteenth Brumaire of
Louis Bonaparte* (1852).

UNLIKE HEALTH-CARE INSURANCE, peacekeeping, and other topics discussed in this volume, the treatment of aboriginal people is not something on which contemporary Canadians pride themselves in comparison to the United States. Rather, the dominant view seems to be that “Eurocanadians” have committed terrible injustices against native people, for which compensation is now due. But in the nineteenth century, Canadians lauded themselves on the Crown’s treatment of native people, contrasting the peaceful settlement of Canada with the Indian wars marking the expansion of the American frontier.

There are indeed some important differences (as well as even more important similarities) between the American and Canadian treatment of native people, and to understand them requires an excursion into history. Mindful of an old academic joke (An anxious student in a history seminar gives his first presentation and then asks the professor, “How did I do?”

"You need to give more background," replies the prof. So the student begins his second presentation by saying, "Slowly the earth cooled . . .". I will not go back to the cooling of the earth, but some background is necessary here.

What is now eastern Canada was originally settled by the French, who simply proclaimed the sovereignty of France without recognizing any aboriginal title to the land. That led to fierce Indian wars in the seventeenth century, especially with the Iroquois; but the French did not occupy a great deal of land except around the Bay of Fundy and in the Saint Lawrence valley. The fur trade proved to be more lucrative than farming, and that required treating Indians as allies and business partners rather than as an impediment to settlement. In contrast, the mainly agricultural British colonists to the south recognized the concept of Indian title to the soil and often attempted to purchase land rather than simply seize it. But disagreements were inevitable, and frontier wars erupted over land issues.

Geography proved to have far more impact than legal theory upon Indian-white relations. In Canada, the Precambrian Shield creates a daunting barrier between the fertile soil of southern Ontario and the agricultural lands of the western prairies, so there could be no spontaneously moving agricultural frontier. In the United States, in contrast, there is no real barrier to settlement from the Appalachian Mountains to the Rocky Mountains, between which lie the immensely fertile lands of the American Midwest and South. Once pioneers got through the Appalachians, which happened by the middle of the eighteenth century, no force in the world could have held up the flow of westward settlement.

King George III and his advisers did, in fact, try to turn back that tide. After acquiring the French territories in North America through the Treaty of Paris, they released the Royal Proclamation of 1763, which reserved the land west of the Appalachians as "Hunting Grounds" for "the several Nations or Tribes of Indians, with whom We are connected, and who live under Our Protection." They were not to "be molested or disturbed in the Possession of such Parts of Our Dominions and Territories as, not having been ceded to, or purchased by us, are reserved to them." Any white men living in the Indian country were called upon "forthwith to remove themselves." Because "great Frauds and Abuses have been committed in the purchasing Lands of the Indians," the Proclamation forbade any further purchases by private persons. However, "if, at any Time, any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for Us, in Our Name, at some publick Meeting or Assembly of the said Indians to be held for that Purpose by the Governor or Commander in Chief of Our Colonies respectively, within which they shall lie."

Far from effectively protecting Indian lands from further encroachment, the Proclamation became one of the causes of the American Revolution; and once the Northwest Territory passed from British to American sovereignty, settlement proceeded quickly and inexorably. The pattern was much the same in most of the United States. Outrunning effective government control, land-hungry settlers would move into Indian country, wars would erupt, and the defeated Indians would sign a new treaty, ceding ancestral lands and moving farther west. In a

tragedy comparable to the expulsion of the Acadians, the United States even deported the Cherokee Indians from the Appalachian states across the Mississippi River.

As a result of these frontier wars and deportations, there are no Indians in most of the eastern United States, except for individuals who have moved back in more recent times. Original Indian communities managed to persist only in Maine, upper New York State, Florida, and northern Michigan and Wisconsin, while a few submerged bands, heavily intermarried with white and black Americans, have recently reappeared in states such as Massachusetts, Connecticut, and North Carolina. This is truly a sad part of America's past, and Canadians can be justifiably proud that nothing similar happened in their history. After 1763, the only violence on the Canadian frontier took place in the North-West Rebellion of 1885, in which a few Indian bands got involved, though it started as a Métis uprising (Métis have never had any form of legal recognition as a separate people in the United States, which remains another enduring difference from Canada).

Given the facts of Canadian geography, agricultural settlement did not easily outrun government control. Much of Canada remained a fur-trading preserve of the Hudson's Bay Company until late in the nineteenth century, so native people continued to be indispensable business partners, living much as they always had. Where agriculture was possible, representatives of the Crown negotiated land-surrender agreements before, not after, the influx of settlers. Guided by the American experience, Canadian authorities deliberately dealt not with whole tribes or nations but with small bands of

Indians, granting numerous but dispersed reserves to make it harder for the Indians to offer any resistance. The Canadian approach to treaty-making proved to be a practical way of taking control of the land while avoiding bloodshed and allowing native people to remain in (an admittedly much reduced part of) their ancestral territories.

This was the model in Ontario and the three prairie provinces. In Newfoundland, though, the original inhabitants—the Beothuk—were exterminated. The pattern in the other Atlantic provinces and Quebec was essentially similar to that in Maine and New York State—settlement on Indian reserves after episodic warfare, without formal land surrenders. Very few treaties were signed in British Columbia; there, most Indians were confined to reserves by legislative fiat. And nineteenth-century treaty-making did not extend to the Yukon and Northwest Territories because there was as yet no pressure for agricultural settlement.

Yet after this long period of difference between the United States and at least part of Canada, Indian policy converged closely in the two countries. When the era of treaty-making finished, the emphasis switched to civilizing the Indian. In both countries, this meant keeping native people in paternalistic tutelage on reserves while pursuing three policies: encouraging the work of Christian missionaries; educating Indian children, using residential schools as a major, though not the only, means of instruction; and promoting agriculture by furnishing instructors, seed grain and livestock, and farm machinery.

The main difference between Canada and the United States in this period (the late nineteenth and early twentieth centuries)

was the passage south of the border of the General Allotment Act (Dawes Act) in 1887. This legislation, which remained in effect until 1934, resulted in much reserve land being decided to individual Indians and often resold to outside purchasers. As a result, most Indian reservations in the western United States are legal checkerboards, with some lands owned by the tribe and others owned by individuals, both Indians and non-Indians.

In these years, Canadian Indian reserves were also diminished, though in a more governmentally controlled way. Bands surrendered surplus land to the Department of Indian Affairs, which then sold the land to private purchasers and used the proceeds for the improvement of the reserves. Over a period of decades, hundreds or even thousands of these surrenders took place, giving rise to the large number of "Specific Claims" currently under negotiation in Canada.

After the Second World War, the paternalism of Indian policy began to change in the United States and Canada—slowly at first, then with gathering speed in the wake of the Civil Rights movement of the 1960s. Features common to both countries include:

- Cleaning up unfinished business by negotiating surrenders for unceded lands. Americans accomplished this with the Alaska land-claims settlement of 1971. Negotiating modern treaties is a much bigger challenge in Canada because it includes at least the Northwest Territories, Yukon, British Columbia, northern Quebec, and Labrador, whereas in the United States it involved only Alaska.

- Reducing the control of the Indian Affairs bureaucracy and emphasizing self-government at the band or tribal level;
- Shutting down residential schools in favour of local schools in Indian communities;
- Trying to promote economic development on Indian reserves as a way of increasing standards of living.

Although the thrust of modern policy is much the same on both sides of the border, the more left-wing flavour of contemporary Canadian political culture has created some visible differences. For one thing, there is more emphasis in Canada on symbolic appeasement. Thus the word "Indian" has virtually disappeared from public discourse, except where it has to be used in legal discussions of the Indian Act, to be replaced by the tendentious neologism "First Nation," whereas Indians are still Indians in the United States.

There has also been more emphasis in Canada on compensation for real or alleged historical injustices. Thus the federal government not only closed residential schools but offered \$2 billion in compensatory payments to survivors of those schools. Also, the Specific Claims process allows bands to challenge the validity of land surrenders that took place decades or centuries ago and to receive monetary compensation for their loss. Based on awards made to date, it could cost \$10 billion or more to deal with hundreds of as-yet unsatisfied claims. In the United States, there has been no compensation for residential school survivors, and the government has not

offered to pay anything for reserve lands lost through the operation of the Dawes Act, let alone through warfare.

Canada has also tried to deal with aboriginal issues at the constitutional level. Clauses on aboriginal and treaty rights were inserted into the Constitution Act of 1982 (Charter of Rights and Freedoms), thus giving constitutional status to both old and new treaties: Brian Mulroney appointed a Royal Commission on Aboriginal Peoples, many of whose recommendations amounted to constitutional amendments; and there were numerous provisions dealing with aboriginal peoples in the failed Charlottetown Accord of 1992. There has been no parallel movement to constitutionalize native issues in the United States, where Indians remain subject to the paramount sovereignty of Congress.

Does all this mean that Canada now treats "its" Indians "better" than the United States does? The answer depends on what is meant by "better." While the United States has not dealt as much as Canada in symbolic and constitutional gestures and in compensation for historical injustices, it has been more innovative in some down-to-earth ways. One example is casino gambling on Indian reservations, which received legislative authorization from Congress in 1988, making some American Indians, most notably the Pequots of Foxwoods, Connecticut, fabulously wealthy. Casino gambling has subsequently come to Canadian Indian reserves, but more slowly and on a smaller scale. Another example is the Harvard Project on American Indian Economic Development, founded in 1987 and supported by the Ford Foundation. Researchers from the Harvard Project have been invited by many reservations to

study their institutions of tribal government with the aim of making them more conducive to economic progress in a capitalist society. There is simply nothing comparable in Canada, where aboriginal economic development remains largely the domain of federal policy, without a boost from prestigious civil-society organizations.

These differences in aboriginal policy between Canada and the United States reflect larger differences in contemporary political culture. Canadians seem to place more emphasis on the public sector—symbolic appeasement, constitutional entrenchment, and compensation for past injustices—whereas Americans seem to look beyond government to entrepreneurship and civil society. These differences are interesting, but how important are they in the greater scheme of things? In comparing two countries as similar as Canada and the United States, we should be wary of the narcissism of small differences. In fact, when we look at the big picture, the contemporary status of aboriginal people in Canada and the United States seems much the same:

- Aboriginal people are small minorities in both countries—about 1 to 2 per cent of the population in the United States and 3 to 4 per cent in Canada. The variety of definitions used makes it hard to be more precise.
- The assimilation of aboriginal people is irreversible in both countries. Aboriginal languages are dead or dying, replaced for most purposes by English. Aboriginal people wear the same clothing, eat the

- same foods, and pursue the same recreations as other North Americans. There are sub-cultural variations, but that is true of many ethnic minorities.
- In both countries, aboriginal people have lost most of their original land base, but still own large amounts of land—certainly more land per capita than the rest of the population. Much of this territory is remote or even wasteland, but it is potentially valuable for recreation, tourism, and resource extraction. However, the property-rights structure (public ownership, with the federal government as trustee) is cumbersome and makes it hard to extract full economic value from the land.
 - When statistical averages are computed, aboriginal people are at or near the bottom of the economic hierarchy in both countries. They trail most other ethnic groups badly in terms of income, longevity, health indicators, and social pathologies.
 - There is enormous variation among aboriginal people in both Canada and the United States. Particularly on reserves and reservations, many live in poverty reminiscent of Third World conditions. Yet there are also many successful aboriginal entrepreneurs, as well as an ever-growing aboriginal middle class of educated professionals and managers.

Canadians can be proud that their history of relations with aboriginal peoples was more peaceful than that of the United

States in the nineteenth century. But that advantage flowed more from the facts of geography than from moral superiority. And in any case, it seems to have made little difference in determining the present-day state of affairs, which is remarkably similar on both sides of the Medicine Line.

The challenge, as clearly described in Jared Diamond's best-selling book *Guns, Germs, and Steel*, is the encounter of societies that are effectively thousands of years apart in terms of historical development. The native inhabitants of North America were themselves quite differentiated, ranging from hunter-gatherers organized in small bands to relatively sophisticated chiefdoms, such as the agricultural Cherokee and Iroquois of the east and the salmon-fishing tribes of the Pacific Northwest; but all must be classed as Neolithic. None had metallurgy; literacy, or the state form of social organization; nor did they have resistance to the infectious crowd diseases brought by the European newcomers. The Neolithic cultures of North American Indians resembled those of the inhabitants of Europe five thousand years earlier, yet they had to confront expeditions sent by the most advanced nations of Western Europe.

Both Canadians and Americans recognized Indians as rational human beings, similar in principle to themselves. Some may have agreed with General Sheridan that "the only good Indian is a dead Indian," but extermination or enslavement of Indians was never the policy of either country. Both sought to civilize Indians, to teach them the virtues of Christianity, European-style intensive agriculture, private property, literacy, and formalized government. Reserves and reservations were not supposed to be permanent enclaves of

otherness, but temporary shelters in which native people would be protected while they learned the arts of civilization. But such vast programs of cultural transformation are more easily projected than carried out. What was initially thought likely to take perhaps a generation or two has now stretched out over centuries, with no end in sight.

There have indeed been some successes. Indians have been converted to Christianity, have largely given up their ancestral languages for English, and have embraced literacy and formal education. Some have thrived in the new environment and become successful businessmen, professionals, athletes, entertainers, and politicians. But others have been left behind, living on government charity in squalid reserves or urban ghettos. Where cultural change has failed, at least part of the explanation is the continuing influence of Neolithic cultural norms that were adaptive in their original setting but are counter-productive in a modern society. Tribalism restricts contacts with outsiders that could lead to economic progress. Close affiliation with family and kin hampers the individualism required to succeed in education and employment. The rhythm of Neolithic life, alternating intensive hunting and gathering with periods of leisure, is at odds with steady application leading to success in modern societies.

In short, both Canada and the United States set out to do the same thing, to incorporate Neolithic peoples into dynamic modern societies. Measured against their aspirations, neither has succeeded fully. Cultural change is always difficult, particularly in constitutional governments where it is generally assumed that culture is a spontaneous part of civil society

rather than a product of public policy. Nonetheless, there are those on both the Left and the Right who dream of sweeping new approaches to aboriginal issues.

The Left fantasizes about aboriginal self-government. But in reality aboriginal communities are small and economically dependent on the societies in which they are now embedded. Municipal-style self-government is a real and desirable possibility, but full-fledged sovereignty is simply not going to happen. Nor would the millions of aboriginal people on both sides of the border who are already well assimilated into the larger society even want it to happen.

The Right fantasizes about doing away with special status altogether—abrogating treaties, repealing legislation that gives aboriginal people special rights, privatizing the reserves and reservations, letting Indians be simply one more ethnic group in a pluralistic society. This also is not going to happen. Treaties, reserved lands, and special legislation are anchored in hundreds of years of history and will not be simply swept away. They are defended by powerful vested interests—hundreds of band or tribal governments, as well as national organizations of native people. In Canada, moreover, the whole system is now constitutionally entrenched, so that Parliament can change almost nothing without getting prior agreement from native people themselves.

Inertia is the dominant fact of the aboriginal situation, and no grand scheme capable of changing it has any chance of being legislated in either country. Public policy, then, should be occupied with trying to make improvements at the margin. On reserve, that ought to mean more flexible property rights,

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more accountable and transparent local government, and better education for new generations. Off reserve, the dynamism of the North American market economy and open society offers enormous opportunities to those willing and able to participate in it. But just as both Canada and the United States have programs to help immigrants adjust to their new home, native people may need that kind of help as they move from remote rural locations to cities and towns in search of a better life. Such a course of "benign neglect," as Daniel Patrick Moynihan once proposed for African Americans, lacks the inspirational quality of grand visions, but it may satisfy the cardinal precept of good medicine and good public policy: "First, do no harm."

THE ENVIRONMENTAL QUESTION

BY NEIL REYNOLDS

AS CONDESCENDING AS IT SOUNDED, this sanctimonious homily—delivered in the midst of a federal election campaign—was implicitly meant to distinguish Canada (as a morally superior country) from the United States (as a morally inferior country). A prime minister doesn't denigrate another country by accident. Thus Liberal Prime Minister Paul Martin's calculated *de cœur* at the celebrated Montreal conference on climate change and the Kyoto Protocol in December 2005: "To the reticent nations, including the United States, I say that there is such a thing as a global conscience and now is the time to listen to it."

Although Canadian prime ministers have famously lectured the United States from time to time, this was the first time that a Canadian prime minister had done so as an oracle for Gaia. Mr. Martin presumably aspired to multiple tactical gains with his allusion to the earth goddess—distinguishing Canada from the United States, distinguishing himself from U.S. president George W. Bush (and, as a kindred conservative, from Conservative leader Stephen Harper). By evoking the global eco-conscience, Mr. Martin sought to define the election as a simple choice between the Liberal good and the Conservative evil.