No.

I'm not trying to be provocative here. The fact is, the primary way that Ottawa and Washington deal with Native people is to ignore us. They know that the court system favours the powerful and the wealthy and the influential, and that, if we buy into the notion of an impartial justice system, tribes and bands can be forced through a long, convoluted, and expensive process designed to wear us down and bankrupt our economies.

Be good. Play by our rules. Don't cause a disturbance.

It's a fool's game. AIM and the other Native activist organizations knew this. Hell, any activist organization should know this. It's not a secret. But governments here and around the world also know that fear and poverty can hold an injustice in place in perpetuity, no matter how flagrant, no matter how obscene.

During the 2010 G20 Summit in Toronto, Canadian Prime Minister Stephen Harper said, "If the world's richest and most powerful nations do not deal with the world's hardest and most intractable problems, they simply will not be dealt with."

Turns out he wasn't being satiric. Which explains, I guess, why global warming, global poverty, and global conflict are all doing so well.

But enough. While pessimism and cynicism have been the salt and pepper in the stew that is Native-White history, there is no reason we can't change the recipe. We could, if we wanted, put the past behind us. We could say that today is a new day. We could, if we were so inclined, decide to start all over again.

Why don't we do that? What don't we give that a try?

7

FORGET ABOUT IT

In the Great American Indian novel, when it is finally written,
All the white people will be Indians and all the Indians will be ghosts.

—Sherman Alexie, "How to Write the Great American Indian Novel"

TODAY IS A NEW DAY. LET'S ENJOY IT TOGETHER.

This is a great sentiment. I like it. Maybe it is time for Native people—such as me—to stop complaining about the past. Better yet, maybe it's time to get rid of the past altogether.

How about 1985?

That was the year my second child was born. Let's draw a line with that year. I'll gather up all of North American Indian history prior to 1985, pile it in a field, and set it on fire. Get rid of everything. Massacres, deprivations, depredations, broken treaties, government lies. Wounded Knee, 1890, where 487 well-armed

soldiers of the 7th Cavalry sat on a bluff with Hotchkiss guns and rifles and opened fire on an encampment of 350 Lakota. Depending on whom you choose to believe, somewhere between 200 and 300 Lakota were massacred, most of them women and children.

Forget about it.

Afterwards, Congress awarded the Congressional Medal of Honor to twenty of the soldiers who had been involved in the massacre.

Forget about that, too.

Wounded Knee, 1890, can go on the pile. So can Wounded Knee, 1973, along with Louis Riel and the Trail of Tears. The mercury poisonings at Grassy Narrows. Residential schools. Removal. Termination. The slaughter of the buffalo. Kit Carson. John Chivington. Alcatraz. Wild West Shows. B-Westerns. The G-O road in northern California. The Tomahawk Chop. The Wisconsin fishing wars. The 1969 White Paper. Leonard Peltier.

I *would* like to pause for a moment and consider a pamphlet the Interstate Congress for Equal Rights and Responsibilities published. *Are We Giving America Back to the Indians?* consists of a series of questions and answers, a Socratic tour of Indian affairs, that leaves little doubt in the mind of the reader that Indians are a bunch of welfare bums living off generous government handouts, and that tribes are above the law and free to do whatever they want. "How do you define an Indian tribe?" the brochure asks. The answer: "It is a corporate entity run by a few individuals."

Silly me. I thought that was the general definition of government.

To the question, "Why hasn't the Federal dole system brought about improvements within our Indian population?" the answer is,

"Because it is plain to close observers that these frequent doles have only increased the Indian people's ability to exist and sit on the sidelines of activity with plenty of time to ask for more."

To a question about the possibility of the federal expansion of the Uintah and Ouray reservation in Utah, the folks at the Interstate Congress for Equal Rights and Responsibilities respond that "we certainly don't want them [Utes] expanding their reservation boundaries unless they buy the land at fair market value from willing sellers. We want the Indians to own and supervise what is theirs, but we do not want them to assume authority over personal property that is not theirs."

I wonder if the Indians in question felt much the same way, that they did not want Whites expanding their boundaries unless they bought land at fair market value from willing Indians. In the early years of Indian-White relations, Native people saw land as a shared resource rather than as a commodity. Since then we've learned our lesson.

But the booklet was published in 1976, and although I'm angered by its blatant racism, into the fire it goes.

1985. Everything before that goes on the pyre. Everything before that is committed to the flames. Ashes to ashes.

And, in the spirit of generosity and new beginnings, and to show you I'm serious, I'll add Gustafson Lake (1995), the Mount Graham Observatory (1997), and Burnt Church (1999) to the pile even though they happened *after* my cutoff date. I'll even throw in the 1996 class-action lawsuit that Elouise Cobell (Blackfeet) filed against the U.S. Department of the Interior for the gross mismanagement of billions of dollars that never made it to the asset accounts of individual Native Americans. The case

took fourteen years to settle and resulted in a $3.4-billion award against the U.S. government.

As a corollary, I'm even willing to admit that Native people have made some rather grievous errors, have had significant lapses in judgment. We've done a reasonably good job of injuring ourselves without the help of non-Natives. For instance, for decades we've beaten each other up over who is the better Indian. Full-bloods versus mixed-bloods. Indians on reservations and reserves versus Indians in cities. Status versus non-Status. Those who are enrolled members of a tribe versus those who are not. Those of us who look Indian versus those of us who don't. We have been and continue to be brutal about these distinctions, a mutated strain of ethnocentrism.

Helen, who happened to be looking over my shoulder as I was writing this, raised the issue of the Cherokee Freedmen.

I'd prefer to avoid that one, but because we're beginning anew, I'll touch on the highlights of the matter. Though "highlights" is most certainly the wrong term.

Since the mid-1800s, the Cherokee have been embroiled in a running political/economic/racial fight over who is a Cherokee and who is not, or more properly, who is Cherokee enough to vote in the Nation's elections and to share in the tribe's assets.

The Cherokee participated in slavery. In 1835, there were over 1,500 African slaves within the Nation. When the Cherokee were forced to move to Indian Territory, many of the slaves went with them. Then, in 1866, after the Civil War, the Cherokee signed a treaty with the United States that, among other things, extended Cherokee citizenship to Cherokee slaves who had been freed by the Emancipation Proclamation. These former slaves, of African

blood and African-Cherokee blood, are the Freedmen and were, according to the treaty, to have "all the rights of native Cherokees."

But many Cherokee have never been happy with the idea of Freedmen being members of the Nation, and in the 1970s, Ross Swimmer, Principal Chief of the Cherokee, issued an executive order that required all Cherokee Nation citizens to have a Certificate of Degree of Indian Blood (CDIB). There are three distinct groups in the Cherokee Nation, Cherokee by blood, Freedmen, and Whites who intermarried. The thrust of Swimmer's order was to make sure that the only group with voting rights was the Cherokee-by-blood group. This effectively disenfranchised the Freedmen.

In the late 1980s, Wilma Mankiller became Principal Chief and reaffirmed Swimmer's order on CDIBs and voting. But in 2004, Lucy Allen, a Freedman descendant, took the matter to the Cherokee Supreme Court, and the court, in a split decision, said that the descendants of Freedmen were, in fact, Cherokee, could apply to be enrolled, and should have the right to vote.

The reaction was immediate, and in 2006, the Principal Chief, Chad Smith, led a successful effort to change the Cherokee constitution and allow the Nation to restrict tribal membership and voting rights.

This has led to a series of cases currently before the courts, in which the Cherokee and the Freedmen continue to argue the matter. The Cherokee insist that, as a sovereign nation, the tribe has the power to set its rules of membership. This is absolutely true, and as it should be. But sovereignty and self-governance come with obligations, some legal, some moral. In the case of the Freedmen, while the 2006 vote to change the Nation's constitution was an affirmation of Cherokee sovereignty, it was also a vote

on economics and race. The sad reality is that many Cherokee did not want to share tribal assets with the Freedmen, nor did they want Black people allowed in as full members of the Nation.

The Freedmen saga reminds me of the old adage that democracy has to be more than two wolves and a sheep voting on what to have for dinner.

I could say something mundane such as "this is an unfortunate chapter in Cherokee history," but that is such an overused phrase. Still, in our history, the Cherokee have looked smarter and behaved better.

And while we're on the subject of Native failings, I should probably own up to the alcoholism, drug abuse, poverty, crime, and corrupt leadership that plague many of the reserves and reservations. The news media have certainly been helpful in bringing these matters to public notice, and I salute the fifth estate for their simple-minded diligence. By now you should have some sense of the history that has made these such complicated problems. Nevertheless, the solutions, in the end, remain our responsibility.

Okay. All done.

But before we move on, I would like to remind everyone that, contrary to the stories that periodically appear in the newspapers and on the evening news chronicling Native poverty and despair, many of the tribes in North America are managing reasonably well. Some have developed strong economies. Of course, it helps if the tribe has natural resources, oil or coal or timber—the Cree at Hobbema, the Navajo in Arizona, Utah, and New Mexico, and the Alaskan tribes—or if the reservation is in an area that lends itself to tourism and eco-tourism, as with the Seminole in Florida.

In addition to the improvement in Native economies, Indians have also become more active in politics and the arts. Throughout North America, hundreds of Native organizations—grassroots, regional, national, and international—have come of age and are pursuing a variety of issues and concerns. Among these are the Native American Rights Fund, the Union of British Columbia Indian Chiefs, the National Aboriginal Achievement Foundation (now Indspire), the American Indian Policy Center, the Native Women's Association of Canada, the Minnesota Indian Affairs Council, the Native Council of Canada, the Indian Arts and Crafts Association, the National Association of Friendship Centres, the Inuit Tapirisat of Canada, the National Indian Child Welfare Association, the National Indian Women's Health Resource Center, and the Métis National Council.

We're cops, teachers, judges, writers, musicians, painters, soldiers, dancers, chefs, business men and women, pilots, architects, hockey players, singers. We're doctors, lawyers, and Indian chiefs. We're everywhere. Absolutely everywhere. Just a reminder of our cultural persistence and adaptation.

But enough of this boosterism. Let's get back to 1985 and our new beginnings.

By the way, this sloughing off of history is not an idea I came up with on my own. It is an approach to North American Native history that has been around for a while and appears to be gaining in popularity. One of the books that came out of the 2006 Mohawk land protest at Caledonia in Ontario, *Help! Caledonia's Nightmare of Fear and Anarchy and How the Law Failed All of Us* by *Globe and Mail* journalist Christie Blatchford, is a proponent of this style of scholarship.

Ignore the past. Play in the present.

In the introduction to the book, Blatchford writes: "This book is not about Aboriginal land claims. This book is not about the wholesale removal of seven generations of indigenous youngsters from their reserves and families . . . or the abuse dished out to many of them at the residential schools. . . . This book is not about the dubious merits of the reserve system which may better serve those who wish to see native people fail . . ."

Which raises the question, what *is* the book about?

As it turns out, the book is about the adverse effects that the occupation of the Douglas Creek Estates has had on the non-Native residents of Caledonia, the negligence of law enforcement in failing to protect the residents of Caledonia and their property, and the culpability of senior command officers and provincial politicians in not providing the necessary leadership.

Ignoring the past is certainly an expedient strategy. But without the long-standing Native land claim dating back to the 1700s, a claim that has been ignored and dismissed by Ottawa and the province, a standoff such as the one at Caledonia doesn't happen. Still, by uprooting itself from the landscape of history, the book is able to concentrate on the trees without having to consider the forest.

Using this approach as a template, one could write a book about the United States dropping two atomic bombs on Japan without having to mention World War II.

Still, a promise is a promise, so let's give our 1985 start date another try. And let's turn our attention to Canada. It's a great country, and for the period after 1985, Canada has most of the interesting stuff.

Bill C-31, for example.

If we really believe that we have moved beyond historical prejudices, if we believe we've left racism behind, then explaining Bill C-31 is going to be . . . difficult.

Bill C-31 is a piece of Canadian legislation passed in 1985 as an amendment to the Indian Act and designed to address the inequity that existed between Status Native men and Status Native women. Status is a Canadian concept. It does not exist in the United States. Indians in the United States have to deal with blood quantum, the amount of Native blood a person has—full, half, quarter, eighth, and on down the line—and with whether or not they are a card-carrying member of a federally recognized tribe. In Canada, Status Indians are simply those Indians who are recognized as Indians by the federal government. In general, Status Indians are also Treaty Indians, though there are reserves created by legislative action rather than by treaty and members of those bands are Status Indians in the same way that Treaty Indians are Status.

If that makes sense.

Prior to 1985 and Bill C-31, when Native men with Status married non-Status women, Native or non-Native, the women and any children gained Status. However, when Native women with Status married non-Status men, Native or non-Native, they and any children lost Status. In this regard, the Indian Act was clearly discriminatory and blatantly sexist.

When Bill C-31 was passed, Native women who had lost Status because of marriage were able to apply to have Status reinstated. The bill also closed the loophole of non-Native women gaining Status through marriage by legislating that no one could gain or lose Status through marriage, though this is slightly disingenuous.

While you can't gain or lose Status through marriage, whom you marry can affect your children.

So long as Status Indians marry Status Indians and their children marry Status Indians, then no one loses Status. But if Status Indians begin marrying non-Status Indians or non-Indians, then Status for any offspring is at risk.

And once you lose Status, you can never get it back.

So, let's say that you have a brother, an identical twin. Both of you are Status, full-blood Indians. You marry a full-blood Native woman who is Status, but your brother marries a full-blood Native woman who is non-Status. You have a daughter. Your brother has a daughter. Both of the girls are Status.

The two girls grow up, fall in love, and marry. Your daughter marries a full-blood Status Native man. Your brother's daughter marries a full-blood non-Status Native man. Your daughter and your brother's daughter have boys.

Watch closely. Nothing up my sleeve.

Your daughter's son, who is a full-blood Native, has Status. Your brother's daughter's son, who is a full-blood Native, does not.

One child is Status. One child is not. Even though each child has the same Status grandparents, even though everyone involved married full-bloods. What you just watched happen is referred to as the "two-generation cut-off clause." Marry out of Status for two generations, and the children of the second union are non-Status.

Was this draconian measure something that Native people requested? Or was it an initiative that the government came up with to eliminate Status Indians?

Let's think about that for a minute.

Because Indians marry both Status and non-Status individuals,

so long as the "two generation cut-off clause" remains in place, more of our children will lose Status. If this continues, at some point, perhaps in the lifetime of my grandchildren, there could no Status Indians left in Canada. There will still be treaty land, held in trust for Status Indians. There will still be Indians, full-bloods and mixed-bloods who have maintained their tribal affiliations and their cultures and perhaps even their languages. But the reserves at Hobbema and Standoff, at Curve Lake and Brantford, at Penticton and Bella Bella, at Cross Lake and Nelson House will all be ghost towns. Or museums.

It is a brilliant plan. No need to allocate money to improve living conditions on reserves. No reason to build the new health centre that's been promised for the last thirty years. No reason to fix the water and sewer systems or to update the science equipment at the schools. Without Status Indians, the land can be recycled by the government and turned into something useful, such as estate lots and golf courses, and Ottawa, at long last, can walk away from the Indian business.

They were never much good at it anyway.

Bill C-31 will probably wind up before the courts, but what I don't understand is why the loss of Status and the potential loss of our land base hasn't been a hot issue for Native organizations in Canada. Perhaps it has and I haven't been paying attention. What Native leaders and government officials *have* talked about is amending the Indian Act to allow for more local autonomy, and about eliminating the Act altogether. So far, none of the talking has gone anywhere. Treaties are the *sine qua non* of the Act. Technically, I think treaties could function without the legislation. They might even function better.

But without the treaties, the Indian Act is a parasite without a host.

The disheartening reality is that, even if the combined efforts of national and grassroots organizations were successful in getting rid of this particular assault on Status, it simply means we'd be back to 1985. No further ahead. All of the problems we face as Native people would still be there waiting for us. And such a campaign, in spite of its success, would do little to help the more than 200,000 non-Status Natives in the country, who have little vested interest in either the Indian Act or in band land.

The alternative is to do nothing—which I'll admit is far more comfortable and appealing—and leave the next seven generations, if there are that many left, to fend for themselves.

While Bill C-31 gives us a quick glimpse into the metaphysics of federal Indian-hating, the *Report of the Royal Commission on Aboriginal Peoples*, its reception, and its implementation provide us with a panoramic view.

The Royal Commission on Aboriginal Peoples was formed in 1991, with a blue-ribbon panel of four Aboriginal members and three non-Native members. The report was originally budgeted at $8 million for three years, but the research ran to five years at a cost of some $58 million. The commission visited 96 communities, held 178 days of hearings around the country on reserves, in community centres, and in jails where Aboriginal people—who are 4 percent of the Canadian population—make up over 18 percent of the federal prison population.

The final report ran to over four thousand pages contained in five volumes (six books), and was the most comprehensive and complete study of Aboriginal people, Aboriginal history, and Aboriginal policy that has ever been done in North America.

The last volume of the report contained 440 recommendations, which included recognizing that "Aboriginal people are nations vested with the right of self-determination," that Aboriginal people in Canada enjoy "a unique form of dual citizenship," that the government abolish the Department of Indian Affairs and Northern Development and replace it with "two new departments: a Department of Aboriginal Relations and a Department of Indian and Inuit Services," that the government of Canada meet with First Nations governments and people to "meet the need of First Nations people for adequate housing within ten years," and that "Representatives of Aboriginal peoples be included in all planning and preparations for any future constitutional conference convened by the government of Canada."

The report went on to make recommendations in areas such as governance, health, housing, education, Native women's rights, Métis rights, and economic development. The expectation was that the government would see the report as an opportunity to renew, amend, and restructure its relationship with Canada's First Nations.

But that's not what happened. Almost as soon as the report was released, it was placed on the shelf with all the rest of the reports from Royal Commissions—the Royal Commission on the Status of Women, the Royal Commission on Radio Broadcasting, the Royal Commission on Bilingualism and Biculturalism, the Royal Commission on Capital Punishment, the Royal Commission on the Electoral System—though, to be fair, some of the recommendations from these other Royal Commissions have actually been acted upon.

Probably the most embarrassing aspect of the Royal Commission on Aboriginal Peoples affair was the speed with which the report was buried. Alive. Perhaps it fell prey to the vagaries of politics.

The Mulroney Conservatives had commissioned the study, but the Chrétien Liberals were the party in power when the report was tabled. Or perhaps the reason is not to be found in the intrigue of partisan politics. Perhaps, as Helen explained to me, Royal Commission reports have become the Canadian alternative to action.

Since we're looking at 1985 and beyond, we shouldn't ignore the Meech Lake Accord, which was a set of amendments to the Canadian Constitution designed to encourage Quebec to join Canada's "constitutional family." Even though the Accord straddles both sides of our date, the critical meeting took place at Meech Lake, Quebec, in April of 1987, with the final text of the Accord being approved in June of the same year.

The Accord officially recognized Quebec as a "distinct society," and it gave the province new and wide-ranging powers in the areas of immigration, Senate and Supreme Court appointments, and changes to national institutions. It also granted Quebec (and the other provinces) the ability to opt out of any program that the province did not feel was in its best interests.

But while the Meech Lake Accord dealt with many of Quebec's concerns, it completely ignored Aboriginal people. The Accord called for a First Ministers' conference to be held at least once a year to consider matters of national concern. Native leaders wanted a place at that table. They wanted official recognition of Indian societies as "distinct societies," a term that Quebec had used successfully. They wanted acknowledgement of Native rights and aspirations. And they wanted guarantees that the veto and opting-out powers that the Accord granted the provinces would not adversely affect Canada's First Nations.

Instead, Native people weren't even mentioned in the document.

Canada was the confluence of three founding peoples, Aboriginal, English, and French, but the Accord acknowledged only the English and French streams.

The Meech Lake Accord had a three-year timeline that expired on June 23, 1990. All ten provinces had to ratify the agreement within that period or the Accord would die. By early June of 1990, eight of the provinces had voted to accept the Accord. Only two had not: Manitoba and Newfoundland.

In the Manitoba provincial elections of 1990, Gary Filmon's Progressive Conservatives won control of the government, with thirty of the fifty-seven seats. The New Democrats captured twenty seats, and the Liberals limped in with seven. Support for the Meech Lake Accord was not unanimous, but the leaders of all three parties agreed to bring it to the floor for a vote.

Before there could be a vote, however, the Accord required public hearings. Public hearings at this late date would have pushed the debate beyond the deadline for ratification. So Filmon introduced a motion to bypass such debate and bring the Accord to the floor for a vote. The vote to dispense with public hearings had to be unanimous, and here the Meech Lake Accord ran into Elijah Harper.

Harper was Cree, a member of the Red Sucker Lake First Nation in northern Manitoba, and the first Treaty Indian to be elected in Manitoba. When the vote to forgo public hearings on the Accord was called, he stood up and said no.

No. No. No.

And with that, the Meech Lake Accord died.

Two years later, another package of proposed amendments to the Canadian Constitution, the Charlottetown Accord, was brought forward. This time, unlike with the Meech Lake Accord,

representatives of the Assembly of First Nations, the Native Council of Canada, the Inuit Tapirisat of Canada, and the Métis National Council participated in the public consultations.

The text of the Accord stipulated the rights of Aboriginal peoples to "promote their language, cultures and traditions and to ensure the integrity of their societies," and acknowledged that Aboriginal governments "constitute one of the three orders of government in Canada." And it also assured Native people that nothing in the Accord "abrogates or derogates from the aboriginal and treaty rights of the aboriginal peoples of Canada," and that the people have "the inherent right to self-government." The Accord even suggested the possibility of guaranteed seats for Aboriginals in a reorganized Canadian Senate.

Mind you, the "possibilities" that appear in government documents are generally euphemisms for "no way in hell." And the "inherent right to self-government" is clarified later on by the provision that "No aboriginal law or any other exercise of the inherent right of self-government . . . may be inconsistent with federal or provincial laws that are essential to the preservation of peace, order and good government in Canada."

Which makes perfect sense. Otherwise, Aboriginal Nations would be . . . sovereign.

Unlike the Meech Lake Accord, which was voted on at the provincial level, the Charlottetown Accord was decided by public referendum. And was soundly defeated. Even though this Accord had guarantees in it for Native people that Meech Lake did not, and even though Native leadership supported the agreement and spoke out in favour of the Accord, Aboriginal people, on the whole, voted against it.

I don't know why, exactly. Perhaps, at this point in our relationship with non-Natives, we were not convinced that the government was here to help.

But it wasn't the Aboriginal vote that killed Charlottetown. In 1992, voters in Alberta, British Columbia, Manitoba, Nova Scotia, Saskatchewan, and Quebec voted against it. Voters in New Brunswick, Newfoundland, Ontario, and Prince Edward Island voted for it. The Northwest Territories said yes. The Yukon said no. Still, it was a close vote: 49.6 percent in favour; 50.4 percent against.

The Accord did give Native people assurances that Meech had not, and this "generosity" might have played a small part in its defeat. I certainly heard people complain about "more money being wasted on Indians," even though the Accord didn't throw any dollars our way. However, most of the rancour that the Charlottetown Accord produced was centred on Quebec.

And after the dust of two failed Accords had settled, Native people in Canada were right back to 1985.

Almost forgot. Remember that land-claim dispute at Caledonia, Ontario, in 2006 that I mentioned earlier? Where Mohawks took over a housing development to protest the building of new homes on what the Mohawk considered to be their territory? That ended happily. In 2011, the Ontario government agreed to a $20-million settlement.

But not for the Mohawk.

No, the money went to homeowners and businesses adversely affected by the six-week blockade. That the settlement came just months before the provincial election when the sitting Liberal government was behind in the polls had, according to government

sources, nothing to do with the timing of the cash award. The concerns of the Mohawk and the land claim itself were shoved into a closet, yet another testament to North America's willingness to ignore commitments and its capacity for self-deception.

In the United States, the post-1985 period was redeemed by the 1990 Native American Graves Protection and Repatriation Act, which required federal agencies and institutions to return Aboriginal cultural materials and human remains to the appropriate tribes. It was also marked by the settlement of a number of land claims—the Massachusetts Land Claims Settlement with the Wampanoag in 1987, the Washington Indian Land Claims Settlement with the Puyallup in 1989, the Seneca Nation Land Claims Settlement in 1990, the Mohegan Nation Land Claims Settlement in 1994, the Crow Boundary Settlement in 1994, the Cherokee, Choctaw and Chickasaw Nation Claims Settlement in 2002, and the Pueblo De San Ildefonso Claims Settlement in 2006, just to mention a few. However, more than anything else, the period was dominated by the rise of Native gaming, and depending on your point of view, gaming could be seen as economic enterprise or economic war.

It began simply enough in 1972, with a property tax bill that Itasca County sent to Russell and Helen Bryan, a Chippewa couple living on the Greater Leech Lake Indian Reservation in northern Minnesota. The Bryans refused to pay the bill, arguing that the mobile home they owned was on tribal land. The court ruled in favour of Itasca County, and the case was appealed to the Minnesota Supreme Court, where the lower court ruling was upheld.

In due course, the case wound up in the lap of the U.S. Supreme Court, where Justice William Brennan, Jr., wrote the unanimous

decision. The simple version is that states did not have the right to tax Indians who lived on federal reservations. As well, the court held that states lacked the authority to regulate Indian activities that took place on Indian reservations. The Bryan case was not about whether Indian tribes could run gambling casinos, but the Brennan decision did open the door to this possibility, and when this basic concept of Indian self-determination was tested in two other major cases, *Seminole v. Butterworth* in 1981 and *California v. Cabazon Band of Mission Indians* in 1987, the matter was settled. Tribes now had the right to develop gambling on tribal land.

Of course, not everyone was happy. State governments were furious, in part because of the loss of control over land that they felt was their domain, and in part because of the lost tax revenues. National gambling interests had a massive stake in places such as Atlantic City and Las Vegas, and saw the advent of Native gambling as direct competition to their fiefdoms. Donald Trump, looking after his own profits, was particularly vocal in his opposition to Native gaming.

The idea that Native people had something resembling agency and independence was just too much to bear, and almost immediately, state governments, along with citizen groups opposed to gambling of any sort, the gambling cabal itself, the Bureau of Indian Affairs, and Congress all climbed into bed together to figure out a way to get around the Brennan decision.

After all, the notion of Indians in charge of themselves and their businesses was antithetical to the American ideals of democracy, fair play, and free enterprise.

What happens next is complicated, illegal, and sleazy. But, given the history of Indian affairs, not unexpected. The states,

along with the federal government and private interests, made it quite clear that while tribes might have the legal right to run gaming enterprises on their reservations, that right could be tied up in the courts until hell froze over. What we need, tribes were told by the powers that be, is a compromise.

Compromise is a fine word. So much more generous than blackmail.

In 1988, Congress formally recognized the right of Native Americans to conduct gaming operations with the passage of the Indian Gaming Regulatory Act (IGRA). The states supported the Act because it required the tribes to negotiate with the states concerning the games that were to be played. And while the Act allowed that tribal governments were the sole owners and primary beneficiaries of gaming, the reality was that the tribes were forced to sign compacts guaranteeing the states a generous portion of the money Indians made from the slots and the tables.

A deal you can't refuse.

In the United States, under the Indian Gaming Regulatory Act of 1988, there were three classes of gambling possible on Native reservations: Class I, Class II, and Class III.

Class I gaming was defined as traditional gaming or social gaming with minimal prizes. Authority for this form of gaming was vested with the tribe itself and was not subject to the regulations of the Indian Gaming Regulatory Act.

Class II gaming was generally understood to cover bingo and other games similar to bingo. Class II gaming was regulated by tribal governments, with oversight of the National Indian Gaming Commission.

Class III gaming dealt with all other types of gaming not

covered by Class I and Class II, and was generally concerned with casino-style gaming. It differed little from the kind of gambling that went on in places such as Atlantic City and Las Vegas, and it was here that the matter of Indian gaming got . . . entertaining. If a tribe wished to engage in Class III gaming, Class III gaming had to be allowed in that state. The tribe also had to negotiate a compact with the state, to be approved by the Secretary of the Interior. Finally, the tribe had to put together a gaming ordinance, to be approved by the National Indian Gaming Commission.

I'm not particularly happy about gambling as a fiscal base for Native people. That kind of money generally brings out the worst in folks, Native as well as non-Native. But after several centuries of economic oppression, and given the lack of alternatives, professional gaming, for many tribes, holds the most potential for the least effort. Still, apart from raw cash and jobs, industrial-strength gambling contributes little of value to the world.

But then, the same thing could be said about land mines and reality television.

To date, there are about 15 Native-run casinos in Canada and over 350 casinos and bingo halls in 30 states, which bring in over $25 billion a year. And these numbers keep growing. In Manitoba, a consortium of Native bands in the province and the Red Lake Chippewa from northern Minnesota have joined forces to build the Spirit Sands Casino near Spruce Woods Provincial Park. The casino will be one of the first Native-to-Native gaming enterprises and may be a model for further development.

The new buffalo. That's what someone called Indian Gaming. *The new buffalo.*

In the fall of 2010, my brother and I went on a car trip that took us through Oklahoma. As we travelled Highway 40 to Oklahoma City and Highway 44 to Tulsa, we ran into a series of small, roadside casinos that the Cherokee have built. They were clean and slick. Bigger than a fast-food restaurant, smaller than the MGM Grand in Vegas. Chris called them "drive-by casinos."

I'm not a gambling enthusiast, but in the spirit of curiosity and tribal solidarity, Chris and I stopped and fed the buffalo. Fifteen dollars each. All things considered, I would have rather put the money into a hospital or a clean-water system on a reserve.

Over one-third of the federally recognized tribes in North America have moved into some form of gaming, with more tribes coming on board all the time. Even the Navajo, who had twice voted against allowing gambling on the reservation, finally succumbed to the promise of easy money and jobs. The tribe's first venture into Class III gaming, the Fire Rock Casino a little east of Gallup, is expected to generate close to $32 million a year.

It's hard to argue with money like that and the jobs that such an industry creates.

No one knows what long-term effects on-reserve gaming will have on Native people. I would hope that we're smart enough to make use of gaming as an enabling industry, hope that, as we create and improve tribal infrastructures, we will also direct some of the profits to more diversified and sustainable businesses.

But make no mistake. When states and provinces and municipalities look at Native gaming, all they see is a deep-dish pie. Since 2003, Arizona tribes have given about $430 million to that state. Connecticut, with the large Native casinos at Foxwoods and Mohegan Sun, gets about $200 million annually. In 2003, California

Governor Gray Davis "called on" tribes to donate $1.5 billion, about one-third of their gaming profits, to help a mismanaged state out of its deficit.

Ironically, California is the same state that in the mid-nineteenth century actively encouraged the slaughter of Native people, offering bounties for Indian bodies and scalps with no regard for gender or age. Twenty-five dollars for adults. Five bucks for a child. It is the same state that sold over four thousand Native children into slavery at prices ranging from sixty dollars for a boy to two hundred for a girl.

Thank goodness that the past is the past, and today is today. We'd much rather be appreciated than hunted, though we do need to understand that each time our new political friends drop by, they will want another and larger piece of our pie, and that they will keep coming back until there is little left but crumbs on a plate.

After all, it's Indian pie and we don't need that much.

But the post-1985 period isn't just about legislation and government and politicians with their hands in the Indian till. The present, like the past, also has its fair share of bad behaviour, racism, and murder.

There are people who are genuinely disturbed by what they erroneously perceive to be preferential treatment for Native people. Many of these voices have banded into small groups and local organizations such as Protect Americans' Rights and Resources, or Stop Treaty Abuse, which were formed in 1987 and 1988 respectively to protest Ojibway spear-fishing treaty rights in Wisconsin. Other organizations, such as the Citizens Equal Rights Alliance (CERA), with chapters in over a dozen states, are larger and better funded, with access to state and federal lawmakers. CERA's mission

statement is succinct and straightforward. "Federal Indian Policy is unaccountable, destructive, racist and unconstitutional. It is therefore CERA's mission to ensure the equal protection of the law as guaranteed to all citizens by the Constitution of the United States of America."

You might have mistakenly thought that CERA is talking about the harm that federal Indian policy is doing to Native people. Not so. The "injured" group that CERA is sworn to protect is Whites.

Bigotry and misinformation feed many of these organizations. Other groups don't even try to pretend. In 1999, a flyer was distributed in South Dakota and Nebraska. It was worked up to look like an official notice from the South Dakota State Fish and Game Department announcing a special season on local Lakota reserves during which White hunters could hunt Native people, or as the flyer called them, "Worthless Red Bastards, Gut Eaters, Prairie Niggers." The hunt, according to the notice, was intended to "thin out the fucking Indians."

The flyer set a limit on the number of Indians you could kill—ten Indians a day—and restricted hunting parties to no more than 150 persons and thirty-five "bloodthirsty, rabid hunting dogs." Other rules forbade shooting at an Indian in a public tavern as the "bullet might ricochet and hit civilized white people." You could not set traps within fifteen feet of a liquor store, you couldn't shoot an Indian sleeping on the sidewalk, and you couldn't shoot length-wise in a welfare line.

Damn. These people are witty.

Benjamin Nighthorse Campbell, a U.S. senator from Colorado, the third Native American to be elected to Congress and the first to chair the Senate Committee on Indian Affairs, took the matter

of the flyer up with the Department of Justice, but by then, with the dim light of judicial interest flickering in their general direction, the framers of the document scurried back to their hidey-holes and disappeared.

I'd like to be able to say, as a matter of Canadian pride if nothing else, that such behaviour is an exclusively American pastime, but I'd be lying.

In 1988, Helen and I were living in Lethbridge, Alberta. We had one of those newer, suburban, split-level tract homes, with stucco walls and a faux-tile roof. The yard consisted of grass and a Russian Olive tree, which was about the only kind of tree able to survive on the high prairies. Its thin, grey leaves made it look as though it were on the verge of dying, thereby fooling the elements and the bad weather into thinking that they didn't have to bother with something so spindly and bent, something so obviously on its last legs.

One Saturday, I was roaming around, going to open houses. I wasn't looking to buy. I was just curious. And, in Lethbridge, in 1988, dropping in at open houses was pretty much the most excitement one could find on a Saturday afternoon.

So, I was looking, and I happened to stumble across a small bungalow on Seventh Avenue, just a short walk from the Woodward's Mall, the Lethbridge Lodge, and the coulees overlooking the river bottom. It was a lovely bungalow on a corner, surrounded by a tall hedge. Inside, it had three bedrooms, one bath, a kitchen, a dining room, and a living room on the main floor. The basement was undeveloped, but you could see where you could put in a full bath, two bedrooms, and a family room without much difficulty.

I hurried home, told Helen about the place. She looked at it, and before the month was out, we had sold our house and bought the bungalow.

Lethbridge sits on the edge of the Blackfoot reserve, and it contains, as Walt Whitman might have said, all of the accommodations and prejudices that one might expect from such a social geography: "I am large, I contain multitudes." Not that these multitudes always got along, but at that time, there was an uneasy peace between the cowboys and Indians. Racism was audible but muted, visible but filtered.

We had been living in our new bungalow for a few months when I arrived home one evening to find a flyer in the mailbox. It was from one of the city's prominent realtors. I won't mention his name because I have no wish to open old wounds and because, at this point, there is nothing to be gained or lost.

The flyer was a single sheet of paper, yellow in colour, and it alerted folks to the fact that a Treaty Seven family had moved into the neighbourhood. I'm reasonably sure we weren't the family in question. Treaty Seven didn't deal with the Cherokee. It was the treaty struck with the Blackfoot in September of 1877. In the case of the flyer, however, "Treaty Seven" was simply code for "Indians," so perhaps the realtor was thinking of me as well.

You don't need Alan Turing to break this code. Indians have moved in. Your property values are about to fall. To save your investment and yourself, call me and I'll sell your home and help you move to a safer—economically and socially speaking—part of town.

At first, I was amused. Then I was angry, as were a number of people in Lethbridge and on the reserve. And why not? This

fool had broken the first rule of racism. Think it, but do not speak it out loud.

So the flyer hit the fan. As it were. The agent took one step backwards (it was a fair-sized fan) and then leaned into the wind, explaining, as he lumbered forward, that it was all a misunderstanding. His flyer wasn't racist, it was an opportunity. If one Treaty Seven family had liked this particular neighbourhood well enough to move there, then other Treaty Seven families might also want to buy in the area. House prices might well go up. Supply and demand. It wasn't racism that we had heard, he argued, it was the engine of capitalism as it chugged down Main Street.

The engine of capitalism. That must have been what I'd heard years before in Salt Lake City when I tried to buy a house there. After I had spent several weeks looking at dozens of homes and frustrating the real estate agent with my indecision, he finally turned to me and asked, "What do you want to do? Spend the rest of your life in a tipi?"

Somebody once told me that racism hurts everyone. Perhaps in the broader sense of community, this is true. All I know is that it seems to hurt some much more than others.

A number of us complained about the Treaty Seven flyer. I don't know what I expected, but I was surprised when I was told by a city official that "you people should calm down." Live and let live, he told me. No harm, no foul. Everybody makes mistakes. Go with the flow. Let he who is without sin cast the first stone. Judge not lest ye be judged.

That's the problem with the Bible, isn't it? While the Old Testament is filled with angry gods and bad business, and the New Testament is awash in gospels and epistles, there just aren't

many good quotations that deal with confronting hate. "Vengeance is mine, I will repay" (Romans 12:20) might seem to suggest a possible course of action, but the verse is really an admonishment *not* to indulge in revenge. It is a reminder that the settling of injustices is the realm of God himself, and no one else. We (humankind) are supposed to forgive our tormentors, turn the other cheek and all that, though the Good Book does not explain the nobility in being despised. Or the profit in being hit.

Oh, sure, the Beatitudes make all sorts of promises for passivity and faith: the poor in spirit and the persecuted will inherit heaven, the merciful will receive mercy, the pure in heart will see God, mourners will be comforted, and the meek will inherit the earth. If you take Matthew at his word, you have most of your bases covered. And Romans 12:20-21 allows that if you feed your enemy, you heap coals of fire on his head, but, like the Beatitudes, this is just a general metaphor with no real contractual obligations.

I had expected that the real estate agent would be censured by the real estate board, but he wasn't even admonished. I don't think anyone believed his explanation, but then again, his flyer wasn't a lynching in Mississippi or a massacre at Sand Creek. It was just another of those sharp shards of bigotry you find when you run your fingers across the Canadian mosaic.

And then there was the sad sign that a young woman working at a Tim Hortons in Lethbridge, Alberta, taped to the drive-through window in 2007. It read, "No Drunk Natives." Accusations of racism erupted, Tim Hortons assured everyone that their coffee shops were not centres for bigotry, but what was most interesting was the public response. For as many people who called in to radio shows or wrote letters to the *Lethbridge Herald* to voice their

outrage over the sign, there were almost as many who expressed their support for the sentiment. The young woman who posted the sign said it had just been a joke.

Now, I'll be the first to say that drunks are a problem. But I lived in Lethbridge for ten years, and I can tell you with as much neutrality as I can muster that there were many more White drunks stumbling out of the bars on Friday and Saturday nights than there were Native drunks. It's just that in North America, White drunks tend to be invisible, whereas people of colour who drink to excess are not.

Actually, White drunks are not just invisible, they can also be amusing. Remember how much fun it was to watch Dean Martin, Red Skelton, W. C. Fields, John Wayne, John Barrymore, Ernie Kovacs, James Stewart, and Marilyn Monroe play drunks on the screen and sometimes in real life? Or Jodie Marsh, Paris Hilton, Cheryl Tweedy, Britney Spears, and the late Anna Nicole Smith, just to mention a few from my daughter's generation. And let's not forget some of our politicians and persons of power who control the fates of nations: Winston Churchill, John A. Macdonald, Boris Yeltsin, George Bush, Daniel Patrick Moynihan. Hard drinkers, every one.

The somewhat uncomfortable point I'm making is that we don't seem to mind our White drunks. They're no big deal so long as they're not driving. But if they *are* driving drunk, as have Canada's coffee king Tim Horton, the ex-premier of Alberta Ralph Klein, actors Kiefer Sutherland and Mel Gibson, Super Bowl star Lawyer Milloy, or the Toronto Maple Leafs' Mark Bell, we just hope that they don't hurt themselves. Or others.

More to the point, they get to make their mistakes as individuals and not as representatives of an entire race.

Racism is endemic in North America. And it's also systemic. While it affects the general population at large, it's also buried in the institutions that are supposed to protect us from such abuses.

On a November evening in 1971, in The Pas, Manitoba, a nineteen-year-old Cree woman, Helen Betty Osborne, was walking home. She was approached by four White men, who threw her into their car and took her to a cabin near Clearwater Lake where she was beaten, raped, and stabbed over fifty times. To call Osborne's death a murder is to ignore the mindless savagery of the crime. It was more a slaughter.

The initial investigation focused on Osborne's Aboriginal friends, but in May of 1972, police received a letter naming three White men, Lee Colgan, James Houghton, and Norman Manger, as Osborne's killers. Later, a fourth name was added to this list, Dwayne Johnston.

Police seized Colgan's car and found trace evidence to indicate that this was the vehicle that had been used to kidnap Osborne.

Osborne was killed before my 1985 cutoff date, so you might feel that I'm cheating, but I've included this crime because the real investigation didn't start *until* 1985 when the Royal Canadian Mounted Police (RCMP), who had sat on their hands for fourteen years, finally got serious about the murder.

In 1983, Constable Robert Urbanoski of the Thompson detachment opened up the cold case and began a new review of the murder. Two years later, in June of 1985, the RCMP placed an article in the local newspaper asking the people of The Pas for their assistance. Amazingly, after all this time, several individuals came forward. Colgan and Johnston had talked openly about the murder and shared details with friends, and in October of 1986,

the police, armed with the old and new evidence, charged Colgan and Johnston with murder. Colgan immediately asked for immunity and got it in exchange for his testimony against Johnston and Houghton. In 1987, Johnston was convicted of murder, Houghton was acquitted, and Colgan walked away without a scratch. Norman Manger was never charged.

Perhaps I was unfair when I said that the police "sat on their hands." The official reason for the years of delay was that the police, while they knew who killed Osborne, didn't feel they had enough evidence to take the case to trial. Perhaps they hadn't thought of asking for the public's help in 1971. Or perhaps back then, they hadn't been all that concerned with solving the murder of an Aboriginal woman. Perhaps it was partly Osborne's fault. Perhaps she should have been White.

In 1999, the Manitoba Aboriginal Justice Inquiry concluded that the murder of Betty Osborne was motivated by racism. "It is clear," the report said, "that Betty Osborne would not have been killed if she had not been Aboriginal." However, the inquiry did not take the RCMP to task for their lack of interest all those years, choosing instead to focus on the special effort that Constable Robert Urbanoski made in bringing Osborne's killer to justice.

Fair enough. In March of 2012, the Aboriginal Commission on Human Rights and Justice and the Institute for the Advancement of Aboriginal Women presented Urbanoski with their Social Justice Award for his efforts in the Osborne case. Well deserved.

But sixteen years? With everything in plain view? With the murderers talking freely about their crime? Even the most generous observer would have to wonder about the police force and its attitude towards Aboriginal people.

Or maybe not.

On another November evening, this time in 1990, a seventeen-year-old Cree man, Neil Stonechild, disappeared just blocks from his mother's home. The next day, he was found frozen to death in a field on the northern outskirts of Saskatoon. A friend, Jason Roy, had seen Stonechild the night before, handcuffed in the back of a police cruiser driven by Saskatoon Police officers Larry Hartwig and Brad Senger. The police department did a cursory and sloppy investigation, concluded that Stonechild had died of exposure, and closed the case.

For the next ten years, the Stonechild case stayed closed. Then, in January of 2000, another Native man, Darrell Night, was picked up by Saskatoon police officers Dan Hatchen and Ken Munson, driven out of town, and dropped off by the side of the road. He almost froze to death, but was able to walk to a power plant where a shift worker, Mark Evoy, let Night in out of the cold.

Night was lucky. He lived. The next day the body of Rodney Naistus, a twenty-five-year-old man from the Onion Lake reserve, was found frozen to death about a kilometre south of where Night had been dropped off. Then days later, in early February, Lawrence Wegner from Saulteaux First Nation was discovered frozen to death in the same area.

The three deaths—Wenger, Naistus, and Stonechild ten years earlier—were remarkably similar. All three were young Native men who had been found frozen to death in the same area just outside Saskatoon. Besides being Native, the other common element that three of the four men shared was that they had last been seen in the back of a Saskatoon Police cruiser.

With three similar, suspicious fatalities and one near-fatality, the Saskatoon public might have suspected that the deaths were racially motivated. And they would have been correct. The police even knew where to look to find the perpetrators. As far back as 1976, Saskatoon police officers had been driving young Native men to the outskirts of town and dropping them off. Within the urban mythology of Saskatoon, these rides were known as Starlight Tours. You could argue that this activity was no more than simple harassment, the kind of harassment that police forces around North America have engaged in for centuries, the kind that usually results in inconvenience and bad feelings rather than death.

But on the prairies, in the dead of winter, these Starlight Tours were executions.

This is what happened to Neil Stonechild, Rodney Naistus, and Lawrence Wegner. Darrell Night would have died as well, had he not found shelter in time.

The police.

There was a public inquiry. A number of high-ranking and retired police officials had their feelings hurt and their reputations impugned. The two officers responsible for Darrell Night's ordeal were convicted and sentenced to eight months in jail, then released early. The two officers who had been seen with Lawrence Wegner in their squad car were fired.

No one was ever formally accused or convicted of any of the deaths.

1985.

In terms of attitudes, in terms of dispossession and intolerance, nothing much has changed; 2012 feels remarkably similar to 1961. That was the year I graduated from high school, and the

year that four hundred delegates from sixty-seven tribes met in Chicago to draw up a Declaration of Indian Purpose, which emphasized the preservation of culture and freedom for Native people to choose their own way. And 2012 also feels similar to 1911, when the Lakota writer Charles Eastman published *The Soul of the Indian* and when Ishi walked out of the Butte County wilderness in northern California and into the modern world. Or 1864, when Kit Carson and the U.S. Army rounded up the Navajo and marched them at gunpoint for eighteen days to Bosque Redondo. Or 1812, when the British cut and ran and left Tecumseh to face the Americans alone at the Battle of the Thames. Or 1763, when Pontiac led a loose confederation of Great Lake tribes against the British in an effort to drive them out of the area.

One story from this period has the British army contemplating using blankets infected with smallpox in an attempt to break the back of Indian resistance, but whether or not that plan was ever carried out, or carried out successfully, has never been proven, so I'm not going to repeat it.

1985.

You see my problem. The history I offered to forget, the past I offered to burn, turns out to be our present. It may well be our future.

8

WHAT INDIANS WANT

What we need is a cultural leave-us-alone agreement, in spirit and in fact.

—Vine Deloria, Jr., *Custer Died for Your Sins*

A FUTURE.

What a good idea. But there's a problem. If Native people are to have a future that is of our own making, such a future will be predicated, in large part, on sovereignty.

Sovereignty is one of those topics about which everyone has an opinion, and each time the subject is brought up at a gathering or at a conference, a hockey game breaks out. To be honest, I'm reluctant to mention it. But if you're going to talk about Indians in contemporary North America, you're going to have to discuss sovereignty. No way around it.

Sovereignty, by definition, is supreme and unrestricted