

In the early part of this century the federal government attempted to resolve this issue by initiating a court action on behalf of the indigenous people at Lac des Deux-Montagnes to determine the respective legal rights and obligations of the Seminary and the aboriginal population. In determining the nature of the land rights of the Seminary, its ability to sell the land unencumbered to third parties would also be clarified. This court action resulted in the 1912 decision of the Judicial Committee of the Privy Council, *Corinthe v. Seminary of St. Sulpice*. In this case, the Privy Council (then the final court of appeal for Canada) stated that the effect of the 1841 legislation “was to place beyond question the title of the respondents (the Seminary) to the Seigniory; and to make it impossible for the appellants to establish an independent title to possession or control in the administration”. The Privy Council also said that the Mohawks could not assert any title by virtue of aboriginal title, nor by prescription nor by way of trust. Their Lordships suggested there might be the possibility of a charitable trust but that the issue was not argued in this case. In essence, the court held that the Mohawk people had a right to occupy and use the land until the Sulpicians exercised their unfettered right to sell it.

The conflict between the Seminary, which continued to sell off parts of the original grant, and the native people continued. In 1945, in another attempt to end this controversy, the federal government purchased what was left of the Sulpician lands and assumed whatever obligations the Sulpicians had towards the Mohawks but without consulting the Mohawks about this agreement. This was the beginning of a process that continues today of assembling land under federal jurisdiction for a reserve at Kanesatake. One of the obstacles to creating a reserve base under the Indian Act, or any future legislation, is that the land purchased in 1945 consists of a series of blocks interspersed with privately held lands within the Municipality of Oka. Both the community of Kanesatake and the Municipality of Oka are faced with the problem of making decisions regarding land use and management that may affect the other community and dealing with decisions made by the other community affecting them. The question of coordinating land use policies has been a source of friction between the two communities for some time.

In 1975, the Mohawks of Kanesatake presented a joint claim under the federal comprehensive land claims policy with the Mohawk people of Kahnawake and Akwesasne, asserting aboriginal title to lands along the St. Lawrence and Ottawa Rivers in southern Quebec. “Comprehensive claims” involve claims to an existing aboriginal title and presume the need to negotiate a range of matters such as land to be held under aboriginal control, lands to be ceded, compensation and future legislative regimes to be applied to the territory in question. The following is a general description of the land involved in the Mohawk claim: the southwestern part of the Province of Quebec encompassing the area along and adjacent to the St. Lawrence and Ottawa Rivers stretching south and east to the U.S. border and north to a point near the Saguenay River and including areas to the north and west of the St. Lawrence and Ottawa Rivers. This territory would include the disputed lands in The Pines at the center of last summer’s dispute.