

independence. Such recognition exists in the United States where Indian Nations are regarded in law as “domestic dependent nations” with some residual sovereign powers. In Canada the majority of First Nations people seek recognition under the Constitution of Canada of an inherent right to self-government. This seems to mean, in part, recognition under the Constitution of areas of exclusive First Nations jurisdiction where neither the federal nor provincial government can dictate what laws will be passed in First Nations communities in those areas of exclusive jurisdiction. In some areas a legislative role for federal and provincial governments would continue. In other areas, there would be shared jurisdiction. These are some of the many unresolved issues relating to the political status of First Nations in Canada.

B) LAND ISSUES AT KANESATAKE

The status of Kanesatake with respect to land does not fit within the usual pattern of Indian reserve lands in Canada. The Kanesatake people are in an anomalous situation under Canadian law: members of the Kanesatake “Indian Band” are “Indians” within the meaning of that term under the Indian Act, have an Indian Act Band Council, live on federal Crown lands (since 1945) reserved for their use (within the meaning of s. 91(24) of the Constitution Act, 1867) but do not live on lands clearly having status as an Indian Act reserve. This means there is no clear legislative regime applicable to provide for local control and administration of these lands.

The origin of this unique situation and the origin of land disputes in the region of Kanesatake and Oka, between native and non-native people, can be traced to the 1717 land grant by the King of France to the Ecclesiastics of the Seminary of St. Sulpice of Montreal. Around 1721, the Sulpicians established a settlement of religious converts, composed of Iroquois (Mohawk), Nipissing and Algonquin people within this seigneurial grant at Lac des Deux-Montagnes. The original grant was subsequently enlarged by the King of France in 1735. It is generally acknowledged that these tracts of land were granted to the Sulpicians for the purpose of protecting and instructing the indigenous people (a policy reflecting the ethnocentrism and paternalism of that time). However, the precise nature of the obligations of the Sulpicians to the native people has remained a point of controversy ever since.

Conflicts between the native people and the Sulpicians over the land were frequent, particularly over the issue of sale of the land to third parties. This controversy eventually led to the enactment in 1841 by the Legislature of Lower Canada of a statute confirming the title of the Seminary to the disputed land while retaining the somewhat vaguely defined obligations to the aboriginal population. *An Act respecting the Seminary of St. Sulpice* incorporated the members of the Seminary and provided that the corporation shall have, hold, and possess the “fief and seignior” of Lac des Deux-Montagnes as proprietors in the same manner and to the same extent as the Seminary did under the original land grant. Local Mohawks continued to dispute the right of the Seminary to sell the land and complained about the manner in which the land was managed.