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# frustrating task of claiming land

The federal government's protection of native interests, pledged in treaty after treaty, has been about as secure as a slab of Swiss cheese.

And one of the biggest holes is native land claims.

Six Nations is claiming a total of 4,900 acres in East Hawkesbury Township, east of Ottawa, and Innisfil Township, south of Barrie. The Mississaugas of the New Credit are negotiating compensation for 54 acres in Mississauga.

The delay in settling the Six Nations' claim is "outrageous," said Phil Monture, who researches and negotiates the band's claims. The way the government has treated New Credit is "patently unfair," said Harry LaForme, the New Credit band's lawyer.

"There isn't a perfect mechanism for settling claims, but surely it can be improved," Mr. Monture concluded.

The first step is for the government to follow its policy, they agree.

New Credit's claim is an example. The policy states that if a band proves part of its reserve was taken without being surrendered — the official word for permitting the government to assume control of the land — the band will be compensated the unimproved value of the land.

The government admitted no surrender exists in this case, but it says it doubts the validity of the claim and will negotiate at only 50 per cent.

Mr. LaForme, who has worked with bands across Canada, settling three claims and negotiating five more, has suggestions to improve the policy.

A way to settle disputes during negotiation is needed, he said. "The government is not only your adversary but your judge. If they have an opinion and we have an opinion, they decide what's right. For them to function fairly, they need arbitration."

Arbitration is not mentioned in the government's policy.

Indian Affairs Minister William McKnight is aware of this concern, said Specific Claims Director J. R. Goudie, but "the government is not prepared to go into arbitration."

The refusal to negotiate claims from circumstances that occurred before Confederation is another obstacle, Mr. LaForme said. If the government

admits — and it does in the New Credit claim — that it erred before and after 1867, it is logical that it correct both errors, not just one, he said.

"If they did something unlawful, they did something unlawful."

Claims that Mr. LaForme calls "morally improper" are not addressed, either. "Probably every band has one," he said, citing examples such as a judge deciding that part of a reserve should not have been designated a reserve, land taken for the clergy or for timber or just taken before the band has voted on the issue.

Worse than flaws in the policy is the government's attitude, Mr. LaForme said. Officials negotiating claims have been told: "We'll determine the value and we'll tell them, 'Take it or leave it,'" he said.

"There are more claims being settled now," Mr. Goudie said, "so that indicates to me there is negotiation."

Six claims were settled between 1974 and 1976, the first three years of the policy. Nine claims were settled between 1984 and 1986 and four claims have been settled this year.

The will to settle claims does not exist, Mr. LaForme insisted, and that is obvious in both the government and the rest of Canadians.

Former Minister of Indian Affairs David Crombie was "prepared to listen and tried to understand" and was committed to fair settlements, Mr. LaForme believed. But the minister could not control his staff, which did not share his commitment, he said.

Mr. McKnight is credited with sorting and straightening the staff and being honest and direct, but he is less "human" than his predecessor, Mr. LaForme said. Indians can expect "not much positive and a lot of unfairness" from him, he said.

The government is also avenging settlements in which bands received more than they deserved because the government's negotiators "did their job poorly," Mr. LaForme said his sources told him.

"They're mad because they got euchred."

He isn't sorry. "Bands deserve everything they can get. They can't pay bands enough to get the ledger to balance."