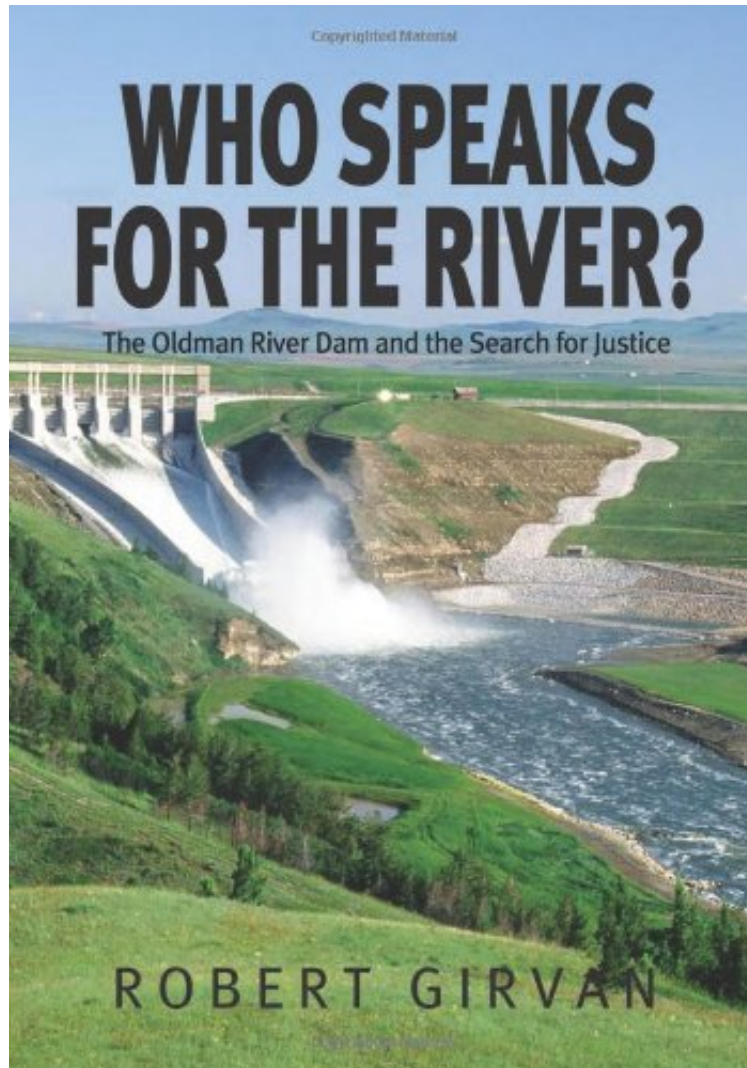


(Download pdf) Who Speaks for the River?: The Oldman River Dam and the Search for Justice

## Who Speaks for the River?: The Oldman River Dam and the Search for Justice

Robert Girvan

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**Robert Girvan : Who Speaks for the River?: The Oldman River Dam and the Search for Justice** before purchasing it in order to gage whether or not it would be worth my time, and all praised Who Speaks for the River?: The Oldman River Dam and the Search for Justice:

0 of 0 people found the following review helpful. Who Writes History? By Ira Katz Libertarians have been heartened in the past few years due to the great growth of their philosophy, especially thanks to the influence of Ron Paul, Lew Rockwell, and others associated with the Mises Institute. However, libertarians are still a tiny minority, really a

remnant. This is especially true among historians with the notable exceptions of Tom DiLorenzo and Tom Woods making the rule. What is noteworthy is that the libertarian can learn much from the good non-libertarian historians, albeit reading with a libertarian perspective (this concept will be expanded upon below) to put the facts in context. It is in this spirit that I recommend the book *Who Speaks for the River: The Oldman River Dam and the Search for Justice* by Robert Girvan. (Note that Robert is a friend of my family, our wives went to school together as children in France.) This book tells the history of a dam in southern Alberta, Canada from the perspective of the Native people (the Piikani Nation of the Blackfoot Confederacy) and environmentalists who were against the construction, and the farmers and government officials who supported it. The history concerns the European incursions into the territory, treaties and agreements between the Canadian government and the Piikani including water rights, and finally the dam project itself that led to a Native protest that attempted to divert the path of the river. The leader of this protest, Milton Born With A Tooth, was arrested for shooting over the heads of the police to warn them that they were trespassing on Piikani land. The book follows his two trials that resulted in him being convicted and sent to prison. Girvan is a former crown prosecutor in Canada who writes from an in-the-know perspective about legal issues and with an almost naiveté in the ways of the world. I can say from personal experience that he is a very nice person. He is absolutely fair to every participant. With the evidence he provides Girvan could easily have brought an indictment against the Conservative government of Alberta, but didn't. I am sure he would never condemn government per se. He believes government through the rule of law is the source for justice in the world, not the tool for control it is in practice as he documents so well in this history. This book illustrates practical and theoretical issues of libertarian interest. He recounts dozens of examples of the nature; i.e., the perfidy, of government. For example, take this comment from inside the state. "Lorne [Fitch, a government biologist] told me the government didn't want to know the truth. He remembered one time when a biologist's report containing unpleasant truths vanished into government and never surfaced. When he began working for the government, the political portion of the civil service was at the very senior levels of government. As time passed, the political dimension began to creep down. More and more employees' jobs and output were directly related to political leanings, which meant that Alberta was not a dispassionate, disaffected, stand-alone civil service. As time passed, the number of people employed by the communications division of Alberta's Ministry of the Environment made that ministry the largest in the Alberta government. As Lorne later said, 'So anything that comes out of government, even a status report on species at risk, is vetted through that Ministry of Truth.'" Statements and analysis on the nature of the law and the bureaucracy occur over and over again. "The lawyer with the Government of Alberta who had the unenviable task of dealing with this issue was Bruce Fraser, director of the Special Prosecutions Branch of the Alberta government's Attorney General's office. The Attorney General's office in every government has a unique role. On the one hand, their lawyers are supposed to prosecute cases independent of political power and influence. Usually in Canada, in my opinion, prosecutions are conducted in this fashion. This is a true achievement of our legal system, though of course it is not perfect, and we must always be vigilant. On the other hand, the Attorney General's office is run by the Attorney General, in this case, part of the ruling Conservative Government of Alberta. Needless to say, the tension inherent in enduring a prosecution on an important project must have filtered down to the lawyers within the Attorney General's office. (This is my educated speculation, rather than the product of inside knowledge.)" "At the end of Judge Harvie's decision, he raised a point that only radicals mention, and even then quietly (at least in Canada). He wondered if the Provincial Court of Alberta was independent enough of the political power of Alberta to even decide the case; "Joanne [Helmer, a local journalist] suggested that [Jim] Horseman's [deputy premier of Alberta] comments about the Oldman Dam being vital to the economic survival of the whole of southern Alberta were nothing more than the attempt to create hysteria among the southern Albertans so they will support the provincial government's decision to continue construction of the dam in the face of a federal appeal court decision to quash the earlier federal approval of the project." "One high-level civil servant explained to Joan Ryan [an anthropologist] how the Department of Indian Affairs worked: It is indicative of the way the bureaucracy works to serve personal ends. You must remember, to finance officers and others at headquarters who have never served at the field level, the Indian people are invisible and not very real, so it is easy for selfish personal reasons to take precedence. A real appreciation for the power of propaganda comes from Martha Kostuch, the staunch environmentalist in the story who brought several suits against the Alberta government for violating the law in starting the project without a permit. Even she 'did not believe that the Alberta government lawyers she dealt with in her struggle behaved improperly; they were simply following orders.'" Early in the book Girvan asks, Did building a dam make economic sense? Kevin Van Tighem, a writer and conservationist from Alberta, testified to a commission studying the project that a decision to build this dam in spite of common sense was a political decision, a tangible, high-profile way of spending public deficit dollars in the south while signalling a commitment to water supply. We have a water welfare state in southern Alberta masquerading as a proud, conservative, self-sufficient society. Water metering and fair pricing to rationalize water demand in irrigation districts could be implemented. From an Austrian economics perspective we know that the more than 300 million dollars for a few hundred farmers would never make sense if spent by the government because economic calculation, without profit and loss, is impossible by the state. At one point Girvan indicates that he recognizes the important questions regarding the economic back story. "Powerful forces worked tirelessly to promote

the dam. The issue wasn't just water but also big money. Water has a tendency, at least in human society, to flow toward power and money, until the power and money wane. Hundreds of millions of dollars in contracts and water-fuelled money were to be made; and political careers would advance by landing the water and money. Of course, more noble motivations—having jobs and a thriving community for the next generation—must also have been present."But this line of inquiry, naming the names of the powerful forces, is not followed up. A fundamental aspect of the history is the property rights of the Native People as opposed to the state and others. From a libertarian perspective we can look to Murray Rothbard who provides a theory for the assigning of property rights in *Man, Economy and State*: "Furthermore, in the question of land, it is difficult to see what better title there is than the first bringing of this land from a simple unvaluable thing into the sphere of production. For that is what the first user does. He takes a factor that was previously unowned and unused, and therefore worthless to anyone, and converts it into a tool for production of capital and consumers goods. While such questions as communism of property will be discussed in later parts of this book, it is difficult indeed to see why the mere fact of being born should automatically confer upon one some aliquot part of the world's land. For the first user has mixed his labor with the land, while neither the newborn child nor his ancestors have done anything with the land at all." Thus, by libertarian justice if not law, do the Piikani people own the land and water where they had lived for centuries before the Europeans arrived? I think it is not clear in that they did very little to convert it into a tool for production of capital and consumers goods. But can that be the sole criterion? Is the land truly worthless to anyone without improvement? I would disagree; and therefore, believe the Piikani had rights. The key historical event was the signing of the treaty that in effect indicated that the Canadian government believed that the Piikani has rights to the land. "Canada and the Blackfoot signed a treaty called Treaty 7 at Blackfoot Crossing, in September 1877, after many days of negotiations. It is clear now that neither side understood the other; how much true communication there was remains an open question. For many years, in the English language, what passed for a history of the treaty was based on newspaper accounts, the written treaty itself, and the report of Canada's chief negotiator, David Laird. The Blackfoot point of view did not exist in English until such scholars as Hugh Dempsey tried to bring it forward. When I asked Piikani ceremonialist Reg Crowshoe about the treaty, he said that the Piikani had not intended to go to the negotiations, until the police found them at a place called O'Agency where the Oldman and the Crow Lodge rivers meet, pointed a cannon at their camp, and told them to 'get up to the treaty, or were going to blow the whole camp right out of the Oldman River valley.'" From this description you can imagine why another member of the tribe said, Treaty 7 that's when the swindle started. A contract signed under threat of violence and false pretenses can certainly be considered unjust, even if it is considered legal by the law of those perpetrating the swindle. The history of persecutions and swindles of the Piikani continued after the treaty until the confrontation over the dam project. During the trial of Milton Born With A Tooth his lawyer made the case for ownership. "Remember, the Peigans [the name for the local native band] didn't know what was happening. All they saw, and I mean this quite seriously, was something like a small military invasion. The police testified that they had brought a helicopter, dozens of officers, dozens of vehicles, and heavens knows how many guns to enforce an injunction against six, eight, ten people? The police had no right to treat the diversion site as an armed camp. The police assumed they can do whatever they like on private property. These kind of assumptions invariably mean the use of power and strike at the freedom of all of us. The police have to respect the laws as much as you or I do." In contrast the prosecutor stated the government's position. "We know that the land that they were on does not belong to the Indian band nor does it belong to the federal government or the Department of Indian Affairs. The land they were on belonged to the Alberta government who had access to the land by way of a permit from the federal." I read this book under the guidance of Ludwig von Mises, who explained why history needs theory to be comprehensible in *Epistemological Problems of Economics*. History cannot be imagined without theory. The naive belief that, unprejudiced by any theory, one can derive history directly from the sources is quite untenable. [Heinrich] Rickert has argued in an irrefutable way that the task of history does not consist in the duplication of reality, but in its reconstitution and simplification by means of concepts. If one renounces the construction and use of theories concerning the connections among phenomena, on no account does one arrive at a solution of the problems that is free of theory and therefore in closer conformity with reality. We cannot think without making use of the category of causality. All thinking, even that of the historian, postulates this principle. The only question is whether one wants to have recourse to causal explanations that have been elaborated and critically examined by scientific thought or to uncritical, popular, prescientific dogmas. No explanations reveal themselves directly from the facts. Even if one wanted to draw conclusions uncritically post hoc, ergo propter hoc one would be completely at a loss in view of the confusing plethora and diversity of phenomena. It is precisely the multifarious causal complexity of processes of which [Karl] Muhs speaks, i.e., the concurrence in them of a multiplicity of causal factors, that makes theory necessary. "So what theories or concepts can we use to understand this history? First is the importance of property rights in understanding the history, law, and ethics of the Piikani relations with Canada. I might speculate further that a cultural respect for property rights is a necessary condition for a stable civilization. The Piikani have learned the hard way that they must take ownership of their culture to preserve it. We can also discern the nature of government from this history. Franz Oppenheimer made the classic observation the Political and Economic means of survival. "There are two fundamentally opposed means whereby man, requiring sustenance, is impelled to

obtain the necessary means for satisfying his desires. These are work and robbery, ones own labor and the forcible appropriation of the labor of others."So to speak of government is to speak of robbery, criminals and criminality. From Wikipedia we can find a definition for organized criminal activity."Organized crime, and often criminal organizations are terms which categorize transnational, national, or local groupings of highly centralized enterprises run by criminals, who intend to engage in illegal activity, most commonly for monetary profit.""Other organizationsincluding states, militaries, police forces, and corporations may sometimes use organized crime methods to conduct their business, but their powers derive from their status as formal social institutions."I love the second phrase that makes the point that there is not much real difference between organized crime and government. I would differentiate government from organized crime by the use of indoctrination by government; that is, government is a specialized subgroup of organized crime. Bringing the themes of property rights and government together, I have written my own definition of government based on its fundamental nature and activities.The organized transfer of wealth, typically but not always within a territory, through the systematic violation of property rights; always with the use or imminent use of violence, but often with indoctrination and/or the deception of individuals to achieve a voluntary transfer. With this concept understood Robert Girvan's history of the dam is easily understood. During an interview with a participant in the protest, Girvan wondered why the Alberta government was so determined to build the dam. The response is priceless and should be remembered when trying to understand every government action."Youve got to expand your mind. Follow the money. Follow the money. Think of what this water is worth."

Who Speaks for the River? tells the true story of the collision between power and justice in the desperate final battle between the Alberta Government, Friends of the Oldman and members of the Piikani First Nation surrounding the building of Alberta's Oldman River dam. Environmentalist Martha Kostuch uses the law and "Woodstock of the Environment," the largest environmental rally in Canada to stop construction of the dam. Piikani First Nation activist Milton Born With A Tooth and his group The Lonefighters, use protests, bulldozers to divert the Oldman River, and one shotgun which Milton fires at police. Those shots result in Milton facing an unfair trial, which one observer characterizes as "what Native people have faced for a century.""My world cannot be documented on your white paper with words. Your dictionaries reveal the white society and show how whites go in circles. Words simply refer to words and are only excuses for what's real. The real world is about fresh air as medicine going into my lungs and the enjoyment of each meal as my last one." --Milton Born With A Tooth, from a Southern Alberta Jail, while waiting for his first trial.

"Who Speaks for the River? is the riveting true story of the final bitter battle between pro-dam Alberta government and anti-dam coalition of environmentalist and some Pliikani First Nation individuals. . . This is not only a true story, but an amazingly prescient one. . ."After years of research, Robert Girvan has organized his material in a unique manner to make a complex issue accessible. It is such a concise review of Canadian history and politics that it would be a good addition to school libraries. He writes in a warm, conversational manner - sharing his impressions of the key players whom he interviewed. He also shares his love of the natural world in his description of the prairies and mountain roads of Alberta, which he travelled to meet those players."Milton Born With a Tooth once said "When the right things are said in the right way, people have no choice but to feel it. This books Who Speaks for the River? does make you feel it. Enjoy!"-- Snowbirds.org About the Author Robert Girvan lived in Alberta and became a lover of the land. He studied politics and philosophy at the University of Alberta, and law at the University of Victoria. Between 1992 and 2004 Robert practiced law in Toronto-eight years as a Criminal Defence lawyer, and four years as a Crown Prosecutor. Since 2008, Robert has combined writing, working as a Criminal Defence lawyer, and raising his two sons. He lives in Toronto, Ontario with his wife and their children. Excerpt. Reprinted by permission. All rights reserved.The Oldman Dam story began for me in September 2004, when I saw a painting on a Toronto office-tower wall...Let me back up a bit. In May of 2004, midway through the prosecution of a murder case in Toronto, I sent my boss an e-mail giving notice that I was resigning as a Crown prosecutor, once my case was finished. After twelve years of fighting cases in the trenches, I was wearied by the constant battling. I needed unstructured time to do crazy things, such as going for a walk in the sun. Resigning left me with the not inconsequential question of what I would do with the rest of my life, or at least the next year. I settled in to the idea of cleaning up a memoir I had begun years before; it was from a previous time Id quit the law, sold almost all my possessions, and moved to Asia to teach English. To my surprise, however, I had no interest in re-living my own past, alone in my basement, staring at my computer screen. Perhaps my withdrawal from the social world made me long for something new, something that transcended my own life. One day in September 2004, I got a phone call from Jim Vella, a headhunter for financial companies in Toronto. Would I like to go for lunch? He did business with my wife (who works in the financial industry), knew I had quit, and was curious to meet me and (I later realized) to help me, if possible. In a field in which slick headhunters wear fine suits, Jim approached his work as a counsellor, trying to get the right fit between company and person. He also volunteered as a counsellor for Native people at a Toronto-based hotline. I met Jim at his office in a downtown tower. He had the deeply furrowed brow of a bulldog, but his eyes shone with a genuine desire to help others. He wanted to

show me his paintings before lunch, he said. He had a strong interest in the plight of Native people in Canada and most of his paintings were by Aboriginal artists. Each painting constituted not only an individual aesthetic but also a story, told on many levels. My eyes fell on the biggest painting. I could not take my eyes off it. It was almost two metres long, just over a metre high, and filled most of one wall. The upper part of the painting depicted a pure, deep, blue sky. The colours were clean and bright, the shapes clear and distinct. Stars twinkled in the upper sky. A moon loomed large, half of it lit, half in darkness. An orange, red, and blue bird with a sharp beak flew high in the sky. The bottom of the painting showed a river from the side. A bronzed man sat on a shimmering white horse that danced on the river's surface. A blue and brown bear, with orange flames climbing his body, was coming out of the river. Beneath the bear a coyote howled at a second moon. A fish, a beaver, and some other creatures I did not recognize swam in the river. In the centre of the painting, a woman rested on her back in the river. Her stomach was swollen, as if she were pregnant. Instead of a baby, there were four people inside her, two men and two women, sitting in a circle. One person smoked a pipe. A yellow turtle floated above the woman's stomach. Inside the turtle was a world. Beneath a milky sky and pale sun, broken ridges of brown land rose out of blue water. The water surrounded a piece of land shaped like Alberta. As I studied the painting, Jim told me how he came to buy it. Milton Born With A Tooth, from the Piikani Reserve in Alberta, had come to Toronto in the early 1990s to publicize his fight against the construction of a dam. Jim told me about Milton and the group he had formed the Lonefighters to protest the dam. He explained that the Lonefighters used a bulldozer and a backhoe to try to change the course of the Oldman River so it would bypass the place where farmers got their water for irrigation. Milton and the Lonefighters wanted to cut the farmers' water off to draw attention to their opposition both to the dam and to the historic injustices they had suffered. They set up a camp on their reserve, beside the Oldman River, near a parcel of land that had once been part of the reserve but had been expropriated and sold to the local farmers' irrigation district in 1922. Jim said that eventually the police invaded the land and stopped the protest. Nearly a hundred police came one morning, along with a helicopter and heavy weapons. Milton ran toward the police carrying a gun. Later, the police put him in jail. He was only trying to protect himself and his people, Jim explained. He added that Milton had an unfair trial and was sentenced to almost two years in jail. Even the Appeal Court concluded that the first trial was unfair. It just shows the kind of things that happen every day to Native people in Canada, Jim said.