**Thomas Flanagan – First Nations, Second Thoughts (2000)**

**Thesis:**

The report of the Royal Commission on Aboriginal Peoples is an exemplar of a new “Aboriginal Orthodoxy” which is illiberal in its promotion of group rights on the basis of priority in time, impractical in its emphasis on maintaining reserves despite limited opportunities for economic development, and immoral in its entrenchment of state welfare dependency.

**Main Arguments:**

Flanagan identifies 8 propositions in the Aboriginal orthodoxy, and dedicates a chapter to challenging each in turn. They are listed below in italics, followed by his response:

* *Aboriginals differ from other Canadians because they were here first*: Aboriginal peoples actually merely constituted a first wave of immigration have been in constant motion since, and thus, cannot claim a deeper connection with the land.
* *Aboriginal cultures were equal to European cultures at contact:* European civilization was thousands of years more advanced in technology and social organization, and it is appropriate to speak of a civilized/uncivilized dichotomy according to the original meaning of these categories.
* *Aboriginals possessed sovereignty, and still do*: Sovereignty is associated with political organization at the level of statehood, which Aboriginal people had not achieved.
* *Aboriginal peoples were and remain nations*: The European notion of nation is not applicable to Aboriginal “tribal communities”, again because of a lack of sophisticated social organization. Also, Canada should only constitute one political nation.
* *Aboriginal peoples should exercise self-government on reserves:* Reserves are impractical and unsuitable to sustaining good governance. “In practice, Aboriginal government produces wasteful, destructive, familistic factionalism (p.7)”.
* *Aboriginal property rights should be recognized as full, entrenched ownership rights in Canadian law:* The way aboriginal title has been defined and redefined in recent court rulings is incompatible with modern economy. Aboriginal-controlled land should be transferred to private holdings by individuals.
* *Land-surrender treaties should be interpreted according to their spirit, not letter:* Treaties mean what they mean, and should not be reinterpreted.
* *Aboriginal people can be prosperous living on their own land base*: Self-sufficiency requires a willingness to integrate into the modern economy, and that probably means moving to where the jobs are in the city. Reserve living shouldn't be subsidized.

**Method/Approach:**

Flanagan explicitly grounds his argument in classical liberalism, with “a great debt to Friedrich Hayek.” He actually opens the piece by stating his core beliefs – society is a spontaneous order that emerges from the choices of individuals, representative government is the only form of government that promotes individual freedom, free markets constitute the only economic system that has brought a high standard of living, and threads of progress are visible in the fabric of civilization. The text combines historical analysis with legal analysis and political theory.

**Contributions:**

This is a relatively radical rejection of the nation-to-nation vision presented in RCAP, which assumes the importance of group rights and the need for historical reparations of one form or another. His arguments have achieved greater resonance outside of academia than within it, but he has stimulated numerous counter-attempts to justify the characterization of Aboriginal peoples as nations. The influence of his arguments about why Aboriginals do not constitute nations and do not possess a special claim on the basis of history is most clearly present in the scholarship of Widdowson and Howard (Disrobing the Aboriginal Industry). His argument about the need for private ownership of land is replicated by Calvin Helin (Dancing With Dependency).

One of his most important challenges is to the notion that prior occupation entails special rights or privileges. Macklem responds to this directly, as do many Indigenous scholars. To a degree, this was a taken-for-granted assumption in contemporary literature prior to his objection.